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Why Coywolf Goes to Court

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WHY COYWOLF GOES TO COURT

by *Signa A. Daum Shanks**

It's the winter. So I can tell you now.¹

There's been so many times, and so many different reasons why.

That a creature has found ways to keep on going.

That this creature is here—and doesn't just barely make it. The creature has gotten tougher so that it will *really* make it. So whether you know it or not, the creature is *really* here! And it's tough. Real tough. This creature is not trying to find a place to live tonight—though that is hard enough. S/he is figuring out how to make it for the long haul. And why shouldn't s/he?² After all, it's not like s/he is hurting anyone (well, okay, maybe *some* hurt can happen). But whatever you think as the creature shows up in front of you, you need to know: s/he's not looking for attention just for the sake of it, or asking for more than any other creature. S/he's just looking for a way to make it through the day, the harsh times, the cold nights. Just finding ways to make sure s/he learns what to do and not do wherever s/he is. Don't you want that too?

* BA, MA, LLB, LLM, PhD. Daum Shanks is Assistant Professor and Director of Indigenous Outreach at Osgoode Hall Law School. This written effort originates from an oral presentation given to Osgoode Hall Law School faculty in January 2014. Marilyn Poitras, Mary Eberts, Patricia Hania, and Lorne Sossin provided thoughtful reflections about the presentation before it happened, and Jeffery Hewitt, Kent McNeil, and Sonia Lawrence kindly offered their thoughts after it was completed. For this version, Jennifer Wong has provided terrific research assistance. I also want to thank the editors at the *Lakehead Law Journal* and the anonymous reviewers for their insight. This presentation is inspired by what are often called “trickster stories.” Though they have many functions, trickster stories can be helpful in how they introduce subjects and methods that have received scant attention. In that way, they are constructed as a way to speak with those arguably *less* familiar with information from Indigenous sources. As an effect of that role, they also have the ability to produce discomfort for those wondering if they can be considered an example of “research scholarship” rather than merely versions of “alternative” or “creative” presentations. See the chapter entitled “Comic Liberators and Word-Healers” in Jeanna Rosier Smith, *Writing Tricksters: Mythic Gambols in American Ethnic Literature* (Los Angeles: University of California Press, 1997) at 71–111. For this article, I also have created a type of parallel citation method to reflect that tension. Should a physical description be used that has potential metaphorical abilities, I have included a reference for any literal details first and a reference for any metaphorical or more juridical connections second. When that occurs, a “⋮” separates the references.

- ¹ For details of how “it was only during the winter nights that stories were told” see Lau Young, “First Nations Weather” (2003) Saskatchewan Indian Cultural Centre and the Western Development Museum Working Paper, online: Western Development Museum <www.wdm.ca/skteacherguide/SICCRsearch/FNWeather_TeacherGuide.pdf>.
- ² I thank Maria Campbell for reminding me of how the syllable “coy” can be interpreted as a way to notice the female presence in some Indigenous languages. This guidance has also inspired me to use “s/he” instead of “he/she” while I emphasize a character's dual gender role prevalent in Indigenous stories and methodologies. As more details are provided, mentioning the woman first also parallels how, almost all the time, the first generation of a Métis family had its mother as culturally First Nations (and hence from the West). For another presentation where a trickster character has the “s/he” reference see John Borrows, “The Trickster: Integral to a Distinctive Culture” (1997) 8:2 Const Forum Const 27 [Borrows, “The Trickster”].

But when s/he does try to live, what do others do in return? Sometimes they are really mean.³ But—and maybe even worse—sometimes they act like Coywolf doesn't deserve to be noticed. You know, it's one thing to figure out how to survive when others treat you meanly, but it's another thing to suffer because no one cares.⁴ And sometimes it's the not caring that hurts even more.

How did this creature begin its being? Well, in the woods, and by the streams, something happened when some different creatures met. The stories about these moments, well, they are not all the same. Sometimes, the storytellers think there was a big problem that the creature's families had and then these problems continue through the creature.⁵ Others think, well, if some different creatures keep crossing paths, what do you expect to happen as a result? Whatever the reasons, different creatures roaming found each other. And then this creature came to be.

Sometimes the creature is big and sometimes s/he is mangy. Sometimes s/he is darker in colour, and sometimes the creature is light. Sometimes you see her/him in the bush, and sometimes the creature is in an open field. Sometimes you might think s/he looks scary. But even if that's what you see, you can't deny s/he's a beautiful runner. The creature has a coat that is as thick as you need for the coldest day, and teeth that you need to chomp, rip and get into things. And s/he knows how to get from here to there quicker than you or me will ever figure out—with a few meals on the side to boot. S/he makes everything out of nothing—or at least something out of stuff you gave up on.

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- ³ For research on the concern that mistreating animals suggests larger social ignorance, see Miranda Spindel & Lila Miller, "Animal Abuse, Cruelty, Neglect (and the Connection to Human Violence)" in Radford G Davis, ed, *Animals, Diseases, and Human Health: Shaping Our Lives Now and in the Future* (Santa Barbara, CA: Praeger, 2011) 51 at 53. ¶ See also the Statement by the UN Special Rapporteur issued after his visit to Canada on 15 October 2013. His statement addresses the social stresses of being abused as part of a larger group: James Anaya, "Statement upon conclusion of the visit to Canada" 15 October 2013, (Former UN Special Rapporteur on the Rights of Indigenous Peoples), online: James Anaya, UNSR <unsr.jamesanaya.org/statements/statement-upon-conclusion-of-the-visit-to-canada>.
- ⁴ Ignoring threatened animals can be at the domineering species' peril. Norman Maclean, *A Less Green and Pleasant Land: Our Threatened Wildlife* (Cambridge, UK: Cambridge University Press, 2015) at 12. ¶ For reflections on how exclusion can damage a culture but also, with the existence of other conditions, actually stimulate survival, see Chapter 7 entitled "Ethnogenesis" in James Scott, *The Art of Not Being Governed: An Anarchist History of Upland Southeast Asia* (New Haven, CT: Yale University Press, 2009) at 238–82. See also Francis B Nyamnjoh, "Globalization and the Cultural Economy: Africa" in Helmut K Anheier and Yudhishtir Raj Isar, eds, *Cultures and Globalization* (New York: Sage Publications, 2008) 123 at 124.
- ⁵ Guillaume de Lavigne writes "coyotes are solitary by nature, a trait carried over to coydog hybrids. This can result in problematic and unsociable behaviour that makes them generally unsuitable..." Guillaume de Lavigne, *Free Ranging Dogs – Stray, Feral or Wild?* (San Francisco: Lulu Press, 2015). ¶ Some scholars have considered Métis community protest as an extension of social unrest between First Nations and settlers. See Manfred Mossmann, "The Charismatic Pattern: Canada's Riel Rebellion of 1885 as a Millenarian Protest Movement" in Patrick C Douaud, ed, *The Western Métis: Profile of a People* (Regina: University of Regina Press, 2007) 185 at 186.

And s/he is called Coywolf.⁶

So like I said, Coywolf has become Coywolf because some creatures have really got along, and sometimes when others learn about Coywolf they like to be super concerned—like the getting along was a bad thing!⁷ Coywolf remembers all the time how her/his oldest family members might have been from way different places, and that a long time ago one of them came from super far away—really, really, really east.⁸ On the other side, family members are from where Coywolf is right now and then even further west.⁹ And like I said,¹⁰ some good times must have happened so that the ones from the east and the ones from the west got along.¹¹ And out of those good times—surprise!—little ones soon came around. Those early days, well, things were never perfect. But for the very first start of Coywolf, it's not like disagreements happened for the sake of disagreements. All could find ways to get along in this more western space.

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6. Note that many First Nations stories refer to a trickster character as “Coyote.” See Borrow, “The Trickster”, *supra* note 2; John Borrow, “Re-Living the Present: Titles, Treaties, and the Trickster in British Columbia” (1998-99) 120 BC Studies/BC Q 100; Thomas King, “The One about Coyote Going West” in Thomas King, ed, *One Good Story, That One* (Toronto: Harper Perennial, 1993) 67. As I explain in this article, however, using a First Nations understanding of a trickster would be less appropriate here given how a theme is the imposition of understandings about First Nations people upon the Métis. As a result, it is vital to also propose other trickster-type roles that are a more accurate portrayal of Métis distinctiveness.
7. Katrina Clarke, “Coyote and coywolf attacks worry local pet owners”, *The Hamilton Spectator* (10 November 2014), online: The Hamilton Spectator <www.thespec.com/news-story/4978999-coyote-and-coywolf-attacks-worry-local-pet-owners/>. ¶ For an example of news coverage on the matter of an overemphasis of concern, see Leaders of the Aboriginal Peoples of Canada, Media Release “National Aboriginal Leaders Call on Stephen Harper to Explain Position on Offensive Writing of Tom Flanagan, Conservative Party of Canada’s National Campaign Chair” (7 June 2004), online: Inuit Tapiriit Kanatami <<https://www.niyc.ca/media/media-release/national-aboriginal-leaders-want-stephen-harper-explain-writings-tom-flanagan/>>.
8. See generally Sonya K Grewal et al, “A Genetic Assessment of the Eastern Wolf (*Canis Lycaon*) in Algonquin Provincial Park” (2004) 85:4 J Mammalogy 625. ¶ Roxanne Dunbar-Ortiz, *An Indigenous Peoples’ History of the United States* (Boston: Beacon Press, 2014) at 1–14.
9. While called “Coyote and Coywolf attacks are on the rise,” the reporters write how the coyotes (and coywolves) keep to themselves together and have not been known to attack any human. Jasmine Kabatay & Jacob Wilson-Hajdu, “Coyote and Coywolf attacks are on the rise,” *Humber News*, online: Humber News <humbernews.ca/coyote-and-coywolf-attacks-are-on-the-rise/>. ¶ See Donald B Smith, “Aboriginal Ontario: An Overview of 10,000 Years of History” in Edward S Rogers & Donald B Smith, eds, *Aboriginal Ontario: Historical Perspectives on the First Nations* (Toronto: Dundurn Press, 1994) 418.
10. Repetition is a common technique in Indigenous storytelling. Steffi Retzlaff, “‘The Elders Have Said’—Projecting Aboriginal Cultural Values into Contemporary News Discourse” in Kerstin Knopf, ed, *Aboriginal Canada Revisited* (Ottawa: University of Ottawa Press, 2008) 330 at 332.
11. These moments are not considered automatic. In fact, wolves and coyotes are often considered “ecological competitors.” Niles Lehman et al, “Introgression of Coyote Mitochondrial DNA into Sympatric North American Gray Wolf Populations” (1991) 45:1 Evolution 104 [Lehman et al, “Introgression”]. When in the same space, “[t]he coyote is a more flexible predator” than the wolf in North America. *Ibid.* ¶ See generally Arthur J Ray, *Indians in the Fur Trade: Their Role as Trappers, Hunters, and Middlemen in the Lands Southwest of Hudson Bay, 1660-1870* (Toronto: University of Toronto Press, 1998) at 62.

Every once in a while the family ways that came from that Eastern Wolf tried to take over.¹² But most of the time those ways were just from too far away to really work.¹³ So when that point—that local knowing was based on years of experience—was remembered, lots of good times happened. And when those good times happened—yip-howl! koosh!—Coywolf really liked to be there.¹⁴

In those good times, especially when Coywolf's mother Coyote was close, it could be hard on Coywolf. Lots of times, Coyote was treated really badly—as if Coyote did not belong where Coyote lived. And then, during those moments, sometimes others thought Coywolf must be Coyote as well, so Coywolf was also treated poorly. Sometimes Coyote would be upset at any Wolf that appeared, and Coyote got Coywolf mixed up and thought s/he was a Wolf as well!¹⁵

With all of these mix-ups and bad views, Coywolf had to get really good at disappearing from view or showing Coywolf was something different than what others first thought.¹⁶ Sometimes, hiding meant others forgot about Coywolf. And being forgotten has its good and bad sides. You can plan without getting bothered. But you have to work harder to get attention

¹² US Department of the Interior Fish and Wildlife Service, “The Reintroduction of Gray Wolves to Yellowstone National Park and Central Idaho: Final Environmental Impact Statement”, by Edward E Bangs & Steven H Fritts (Washington, DC: US Department of the Interior Fish and Wildlife Service, 1994) at 2. ¶ Samuel Hearne, one of the first explorers of Canada's North West, was renowned for his mistakes and presumptions about how British processes would succeed on a different continent and in a different geography. Canada, Library and Archives Canada, *Mapping the North West: Samuel Hearne and Matonabbee*, online: Library and Archives Canada <www.bac-lac.gc.ca/eng/discover/exploration-settlement/pathfinders-passageways/Pages/mapping-northwest.aspx>.

¹³ *Ibid*, “Appendix 6”, 102. ¶ JR Miller, “Canada's Historic Treaties” in Terry Fenge & Jim Aldridge, eds, *Keeping Promises: The Royal Proclamation of 1763, Aboriginal Rights, and Treaties in Canada* (Montréal: McGill-Queen's University Press, 2015) 81 at 83.

¹⁴ The “yip-howl” is for “a love that no one thought could happen” and that eventually led to the “rare thing” known as a coywolf. Mary Beth Hartill, “The yip-howl of the coywolf”, *North Bay Nipissing News* (19 February 2013), online: North Bay Nipissing News <www.northbaynipissing.com/news-story/4214624-the-yip-howl-of-the-coywolf/>. ¶ “Koosh” is a Michif (the Métis language) shorthand for “surprise.”

¹⁵ Ryan Wolstat, “Education, not panic needed over coyote-wolf hybrids”, *The Toronto Sun*, (13 February 2013), online: The Toronto Sun <www.torontosun.com/2013/02/13/education-not-panic-needed-over-coyote-wolf-hybrids>. ¶ The early stages of Indigenous-settler socializing are explained generally in Sylvia Van Kirk, ““Women in Between”: Indian Women in Fur Trade Society in Western Canada” (1977) 12:1 *Historical Papers/Communications historiques* 30. This interaction, while often officially announced as dangerous, very regularly occurred and was, ultimately and of course, a choice of the white men who travelled to North America.

¹⁶ Coywolves are tending to stick to what appear to be coyote habitat. Lehman et al, “Introgression”, *supra* note 11 at 108. See Steven M Chambers, “A Perspective on the Genetic Composition of Eastern Coyotes” (2010) 17:2 *Northeastern Naturalist* 205 at 206. ¶ First Nations regularly welcomed Métis into their own cultural circles, and those relationships solidified as years passed. Paul LAH Chartrand, “Niw_Hk_M_Kanak (“All My Relations”): Metis-First Nations” (2007) National Centre for First Nations Governance Research Paper, online: Centre for First Nations Governance <fngovernance.org/ncfng_research/paul_chartrand.pdf> at 6.

when you need it!¹⁷ Coywolf learned to scrounge for food, knowledge, and places to live. That became Coywolf's way to survive on what others considered nothing. Those moments of surviving were hard, but they were also golden because they made Coywolf what Coywolf is.

As more time passed, and Coywolf kept to Coywolf's (and often Coyote's) spaces, more creatures came into those great spaces. Whatever their reasons, Coywolf had to keep the arrivals in mind as Coywolf thought about her/his happenings and space. Should Coywolf stay in the same place? Move without any notice? Plan and then show up somewhere else? Coywolf could do any of these possibilities. After all, Coywolf was Coywolf and Coywolf could shift like no creature!¹⁸

Sometimes Coywolf stayed. And sometimes Coywolf went! And sometimes Coywolf went somewhere without any other creature catching on to that. Coywolf hung around. Or left. Or went far. Or came back. Coywolf did whatever it took to live. Coywolf might come, and Coywolf might go. And who knows how long that coming and going might be. Whatever would make Coywolf make it.¹⁹ Because making it was still such a problem, as others kept showing how mean they could be by saying things like:

Coywolf is just a Wolf, so don't have any special ideas about Coywolf!²⁰

Coywolf is a Coyote, so don't expect Coywolf to be good or smart!²¹

¹⁷ Emily Chung, "Coyotes are moose killers, study finds: Study reports 4 confirmed cases of adult moose killed by coyotes and coyote-wolf-hybrids", *CBC News* (24 October 2013), online: CBC News <www.cbc.ca/news/technology/coyotes-are-moose-killers-study-finds-1.2224256>. ¶ Jennifer Brown, "Isaac report provides 'road map' to reconciliation with Métis", *Legal Feeds* (21 July 2016), online: The Blog of Canadian Lawyer & Law Times <www.canadianlawyermag.com/legalfeeds/3361/isaac-report-provides-road-map-to-reconciliation-with-metis.html>.

¹⁸ Research has confirmed coywolves in New York, Virginia and the Appalachian mountains. Christine Dell'Amore, "Coyote-Wolf Hybrids Have Spread Across U.S. East", *National Geographic News* (8 November 2011), online: National Geographic <news.nationalgeographic.com/news/2011/11/1111107-hybrids-coyotes-wolf-virginia-dna-animals-science/>. ¶ For good descriptions of how far that travelling could be, see Nicole St-Onge & Carolyn Podruchny, "Scuttling Along a Spider's Web: Mobility and Kinship in Metis Ethnogenesis" in Nicole St-Onge, Carolyn Podruchny & Brenda Macdougall, eds, *Contours of a People: Metis Family, Mobility, and History* (Norman, OK: University of Oklahoma Press, 2012) 64.

¹⁹ Lehman et al, "Introgression", *supra* note 11 at 107, 113. ¶ Métis had both the ability to stay in an area for a long period of time but also to pack up and go at a moment's notice. Brenda Macdougall, "'The Comforts of Married Life': Metis Family Life, Labour, and the Hudson's Bay Company" (2008) 61 *Labour/Le Travail J Can Labour Studies* 9 at 16.

²⁰ Live Science Staff, "Eastern Wolves Deemed Separate Species", *Live Science* (26 November 2012), online: Live Science <www.livescience.com/25043-eastern-wolves-separate-species.html>.

²¹ Repeatedly, coywolves are referred to as "eastern coyotes" and written about as a hybrid rather than focusing on a new species of animal that would be better understood as an animal on its own accord. Marissa Fessenden, "Coywolves are Taking Over Eastern North America", *Smithsonian* (3 November 2015), online: Smithsonian <www.smithsonianmag.com/smart-news/coywolves-are-taking-over-eastern-north-america-180957141/?no-ist>. See how the term is also often interchanged with "coyote". For references about how a coywolf should be called an "eastern coyote" see Chris Halliday, "If you've seen a coyote, it's probably a coywolf", *Orangeville Banner* (25 January 2015), online: Orangeville Banner <www.orangeville.com/news-story/5277595-if-you-ve-seen-a-coyote-it-s-probably-a-coywolf/>. ¶ The Métis have faced similar classification histories. As an example, for the history of not considering the Métis language its own language rather than a dialect of Cree, see Judy Iseke, "Negotiating Métis Culture in Michif: Disrupting Indigenous language shift" (2013) 2:2 *Decolonization: Indigeneity, Education & Society* 92 at 105-06.

Coywolf will always be a problem!²²

And so many times when these things were said by another creature, that same creature hadn't even seen Coywolf!

So there Coywolf was, getting through the day, and being considered lots of things except the right (and good) thing. This getting through things, then, was about Coywolf being right there but not being there to the eye. Or being there, but having to be a little louder to say how s/he was Coywolf. And some of that being there happened in the places no other creature seemed to care about or dare be. Like on the side of golf courses or cemeteries,²³ on road allowances²⁴ or in a rambling, almost dangerous ravine!²⁵ Or you know those "clover leaf" places where people drive? And there's grassy space that if you were a bird you'd see what looks like two infinity signs? Right there!²⁶

What with so many seeing Coywolf and thinking s/he isn't worth much, or not seeing Coywolf and not caring either way, or even claiming to care but getting Coywolf mixed up with Wolf or Coyote, it could've been no surprise that Coywolf might disappear altogether.

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- ²² Clarke, *supra* note 7. ¶ See Mary Agnes Welch, "The Métis Question: Defining the uniquely Canadian people who founded Manitoba is No Easy Task", *Winnipeg Free Press* (14 February 2015), online: Winnipeg Free Press <www.winnipegfreepress.com/local/The-Metis-question-291731281.html>.
- ²³ Susan Fleming, "Meet the Coywolf" (August 31, 2014) (video) at 00h:16m:35s, online: CBC <www.cbc.ca/natureofthings/episodes/meet-the-coywolf> [Meet the Coywolf]. A study about the use of cemetery space pertained to a coywolf pack in greater Boston. Jonathan G Way, "Record Pack-density of Eastern Coyotes/Coywolves (*Canis latrans* X *lycaon*)" (2011) 165:1 *The American Midland Naturalist* 201. ¶ For reflections of Métis living in a space officially constructed or understood as having a function that is not about creating a residency, see Katheleen Orth, "Road Allowance People's History Shared in Toronto" (2002) 1:12 *Ontario Birchbark* 11.
- ²⁴ Sharon Levy, "Rise of the Coyote: The New Top Dog", online: (2012) 485 *Nature: Intl Weekly J of Science* 296, online: Nature <www.nature.com/polopoly_fs/1.10635!/menu/main/topColumns/topLeftColumn/pdf/485296a.pdf>. ¶ For years, and as an effect of neither provincial nor federal governments agreeing to aid Métis in social housing matters, some Métis families lived in tents located in road allowances close to an intersection of a provincial and federal highway. The space in which they resided had been ignored by each government level and, as a result, these families were often left alone and not ejected from the space. Mareike Neuhaus, "The Marriage of Mother and Father: Michif Influences as Expressions of Métis Intellectual Sovereignty in *Stories of the Road Allowance People*" (2010) 22:1 *Studies in American Indian Literatures* 20 at 26. Meet the Coywolf, *supra* note 23 at 00h:08m:37s-00h:09m:30s.
- ²⁵ Meet the Coywolf, *supra* note 23 at 00h:35m:10s-00h:37m:40s. ¶ For details about an area where Métis resided in difficult conditions that others chose not to live in, see Carson Hammond, "Rooster Town: The Winnipeg Community that Nobody Remembered", *The Uniter* (31 October 2012) 3, online: The Uniter <uniter.ca/view/rooster-town-the-winnipeg-community-that-nobody-remembers>.
- ²⁶ Meet the Coywolf, *supra* note 23. ¶ Murray Dobbin, *The One-and-A-Half Men: The Story of Jim Brady and Malcolm Norris, Metis Patriots of the Twentieth Century* (Regina: New Star Books, 1987) at 16. An infinity symbol has had a significant role in public symbolism used by Métis families, political groups and governance for at least two-hundred years. Cynthia Sugars, *The Oxford Handbook of Canadian Literature* (Toronto: Oxford University Press, 2015) at 130.

But Coywolf didn't.²⁷ Still, even with that "but," Coywolf knew something new had to happen. With all of the moments of hurt, and because no one bothered to ask Coywolf:

Where did you come from?

What do you need?

What do you think of what we do?

Coywolf just had to find a way for others to realize they could count on Coywolf for ideas or they should count Coywolf as worth being kind to. Others, well, they didn't have to make Coywolf *more* important than others, but since Coywolf was treated so much worse for so long, something had to be done right away just so Coywolf was on the same ground as others. But better off than now because Coywolf was treated so much worse.

As more time passed, and as Coywolf still lived in places no one else cared about and lived off stuff no one else wanted, Coywolf got frustrated enough to decide something should be done to make sure Coywolf wasn't any better or worse off than others and the way Coywolf survived deserved better respect. It was time to take on those who were okay with Coywolf's place, and it was really important to take on those who thought Coywolf had *no* place! So after too many times of living in places nobody cared about, and too many moments of trying so much harder than others to just make it through a day,²⁸ and too many times of being thought of as something but then not getting the treatment that this same something normally got, Coywolf thought a moment had come.²⁹ Enough of the times of being thought of as only "in between," different creatures,³⁰ or not even being remembered at all. Enough of

²⁷ Danielle Marr, "Those Aren't Coyotes roaming Caledon, They're Coywolves: expert", Caledon Enterprise (21 January 2015), online: Caledon Enterprise <www.caledonenterprise.com/news-story/5267816-those-aren-t-coyotes-roaming-caledon-they-re-coywolves-expert/>. The first sentence reads "A string of deadly attacks on dogs in Caledon might not be the work of coyotes after all but rather a larger and more dangerous related species." ¶ During public talks, Jim Sinclair explained this idea that Métis could be justifiably aggressive but have chosen different strategies. Ruth Gruber, "Pope backs Metis in Native Rights Fight", *The Toronto Star* (7 March 1987) A3.

²⁸ Gary Mason, "Premier Says Meeting Clarified Metis Issues", *The Vancouver Sun* (25 June 1987) A15.

²⁹ For an argument that coywolves are not worthy of being distinguished as their own species, see Roland Kays, "Yes Eastern Coyotes are Hybrids, But the 'Coywolf' is Not a Thing", *The Conversation* (16 November 2015), online: *The Conversation* <theconversation.com/yes-eastern-coyotes-are-hybrids-but-the-coywolf-is-not-a-thing-50368>. ¶ As they have experienced a history of being excluded from mainstream Canadian society, Métis "experienced the same or similar limitations imposed by the federal government, and suffered the same burdens and discriminations" as First Nations. *Daniels v Canada (Minister of Indian Affairs and Northern Development)*, 2013 FC 6, [2013] FCJ No 4 at para 25 [*Daniels FC*].

³⁰ For commentary about how it would be biologically shortsighted to consider a coywolf a "hybrid" (as many sources do) instead of deeming it a species, see "Greater than the Sum of its Parts", *The Economist* (31 October 2015) 74-75, online: *The Economist* <www.economist.com/news/science-and-technology/21677188-it-rare-new-animal-species-emerge-front-scientists-eyes>. ¶ See also Maria Campbell, *Halfbreed* (Lincoln, NB: University of Nebraska Press, 1973) at 26-28.

the times of being a halfbreed. Enough of being a no breed.³¹ Enough of being considered too pesky all the time.³²

Coywolf went back up north a little to a spot that was a little further than Coywolf's very first home. Then up a few steps.³³ And past these thick straight uprights.³⁴ All this travelling to tell those who could see the whole land in more of a fell swoop than Coywolf and could perch above the rest while doing so. This spot was, much to Coywolf's regular annoyance, a favourite place of Magpie. Magpie could look over a lot. But Magpie *really* liked to look down at others and even thought that Magpie's ideas were good for all.

For Coywolf, this belief of Magpie's was regularly so, so frustrating. Like when Magpie squawked that taking little ones from others was better for all those concerned,³⁵ or when Magpie took others' items without doing enough to find out to whom they belonged.³⁶ Or when Magpie didn't even care when little ones were stolen.³⁷ Somehow Magpie kept getting away with claiming it knew what was best for the land, and what was best for Coywolf (so

³¹ Rarely are coywolves considered worthy of rescue programs or of a special protective classification. See The Fur Bearers, "Algonquin Coywolf Goes Home" (August 10, 2014), online: The Fur Bearers <thefurbearers.com/blog/episode-143-algonquin-coywolf-goes-home>. ¶¶ Infrequently, Métis families received attention for their own difficult circumstances. Patrick C Douaud, "Canadian Metis Identity: A Pattern of Evolution" (1983) 78 *Anthropos* 71. See also Jean Teillet, *Métis Law in Canada* (Vancouver: Pape Salter Teillet, 2013) at 4–5, online: Pape Salter Teillet LLP <www.pstlaw.ca/resources/Metis-Law-in-Canada-2013.pdf>. See also the Supreme Court of Canada's decision in *Daniels v Canada (Indian Affairs and Northern Development)* where the court calls the Métis "a large population of collaterally damaged" people. 2016 SCC 12 at para 14, 395 DLR (4th) 381 [*Daniels SCC*] (citing *Daniels FC*, *supra* note 29 at para 108).

³² Bethany Augliere, "Effort to Prevent 'Coywolf' Hybrids is Working, Study Finds", *Science AAAS* (10 December 2015), online: Science AAAS <www.sciencemag.org/news/2015/12/effort-prevent-coywolf-hybrids-working-study-finds>. ¶¶ For a descriptive of Métis peoples considered "pesky halfbreeds" by others, see Aritha van Herk, *Mavericks: An Incurable History of Alberta* (Toronto: Penguin Books, 2001) at 33.

³³ As the criminal "trigger" for charging being laid in a trial, Steve and Roddy Powley shot a bull moose in 1993. Neither man had a valid Ontario Outdoor Card or valid hunting licence to hunt moose. See David Helwig, "Sault Moose-hunting Case Goes to Supreme Court today", *SooToday* (17 March 2003), online: SooToday <https://www.sootoday.com/local-news/sault-moose-hunting-case-goes-to-supreme-court-today-89065>.

³⁴ Heather Ingram, *Views of the Sault* (Burnstown, ON: General Store Publishing, 1995) at 77. ¶¶ For details about the Powley trial, see Arthur J Ray, *Telling it to the Judge: Taking Native History to Court* (Montréal: McGill-Queen's University Press, 2011) at 97.

³⁵ DW Broom, "Magpie *Pica pica* Predation on Blackbird *Turdus Merula* Nests in Urban Areas" (1993) 40:1 *Bird Study* 55. ¶¶ For justification of the Crown apprehending children it claims are in crisis, see Philip Burge, "Prevalence of Mental Disorders and Associated Service Variables Among Ontario Children Who Are Permanent Wards" (2007) 52:5 *Can J of Psychiatry* 305.

³⁶ TV Shephard, SEG Lea & N Hempel de Ibarra, "'The Thieving Magpie?' No Evidence for Attraction to Shiny Objects" (2015) 18:1 *Animal Cognition* 393. ¶¶ For the Crown's ability to take property, see Canada's *Escheats Act*, RSC 1985, c E-13 and Ontario's *Escheats Act*, RSO 1990, c E-20 and *Expropriation Act*, RSO 1990, c E-26.

³⁷ Francisco Díaz-Ruiz et al, "Feeding Habits of Black-billed Magpie During the Breeding Season in Mediterranean Iberia: The Role of Birds and Eggs" (2015) 62:4 *Bird Study* 517. ¶¶ Métis Nation of Ontario, "Métis Victims of Sixties Scoop Eligible to Participate in Civil Lawsuit," online: Métis Nation of Ontario <www.metisnation.org/news-media/news/m%C3%A9tis-victims-of-sixties-scoop-eligible-to-participate-in-civil-lawsuit/>.

long as it didn't cost anything Magpie valued).³⁸ So now, Coywolf thought, I need to find a way to get Magpie to leave Coywolf be. So why not get the ones who Magpie admires to tell Magpie that? Since Magpie wouldn't listen to Coywolf, maybe Coywolf could get other perchers and other high fliers to learn of Coywolf's hard times. Instead of giving up and paying any dues, Coywolf would court those perchers who Magpie claimed to respect. And guess what? Magpie was fine with that. Magpie's cousin, Blue Jay, would be the first flyer to learn about Coywolf and Magpie's disagreement.³⁹ And Magpie thought that would surely make things more difficult for Coywolf. But little did Magpie know that maybe Coywolf would have to squawk like Magpie did when both of them saw Blue Jay, and maybe Coywolf would not like doing so, but if any creature could change their ways for a little while to make it to the next day, it was Coywolf.⁴⁰ So Coywolf was at peace with acting a little like Magpie in front of Magpie's cousin, if that's what it took to let Coywolf be Coywolf.

So in front of Blue Jay, and back and forth and back and forth, Coywolf and Magpie squawked. Every once in a while during this fight, Coywolf would say things s/he thought Blue Jay would already know. But Coywolf also brought up things Blue Jay didn't know, like how the land was known to Coywolf, or that the way Coywolf learned to survive had a lot to do with how Coyote lived, or that Coywolf's ways could also be different from Coyote's ways too.⁴¹ And, of course, such a claim did not go over with Magpie well, since Magpie liked to fly over all ways of living. Magpie squawked that it was just doing what other creatures expected—to tell other creatures that Coywolf couldn't just act in a way Magpie (and Blue Jay) didn't agree to. But Coywolf wouldn't back down and neither would Magpie, so after all their squawking they waited for Blue Jay to see what Blue Jay thought. Magpie kept fearing—or so Magpie told Blue Jay—that if Coywolf got others thinking Coywolf could live as Coywolf wanted, where would it end? Would other creatures want the same? And then how would Blue Jay keep track of all these different ways? Coywolf kept squawking (back in a way that sounded like Magpie's squawks so Magpie could follow) that the *only* matter important to Coywolf was *Coywolf's* ways. And, if Magpie could just admit it, if Magpie looked out for others like it claimed it did, Coywolf likely wouldn't need to do so much arguing today anyway. After all, Coywolf kept squawking, Coywolf was just trying to make it through a day or season—not take over any space from others.⁴²

³⁸ The provinces have a long history of denying any responsibility toward Métis. Chris Coppin, “How the Métis Confront the Challenges of the Canadian Legal System” *Legal Current* (14 October 2014), online: Legal Current <www.legalcurrent.com/how-the-metis-confront-the-challenges-of-the-canadian-legal-system/>.

³⁹ Blue Jays and Magpies are, in biological terms, “cousins”. Norman Charles Conrad, *Reading the Entrails: An Alberta Ecohistory* (Calgary: University of Calgary Press, 1999) at xv. ¶ For how judges in Canada have “a bird’s-eye view of the whole scheme,” see *The Canada Law Journal* IX: New Series (Toronto: Willing & Williamson, April 1973) at 103.

⁴⁰ The trickster is considered flexible enough to “change shape at any time.” Susan R Bowers, “The Trickster Discourse in *House Made of Dawn*” in Harold Bloom, ed, *The Trickster* (New York: Infobase Publishing, 2010) 89 at 91. For commentary about the compromises Indigenous lawyers often make while being within a (largely) non-Indigenous legal regime, see page xx of Jean Teillet’s forward in Ray, *supra* note 34.

⁴¹ For discussion of a “distinctive and cohesive Métis community,” see *R v Powley* [1998] OJ No 5310 at para 22, 58 CRR (2d) 149.

⁴² The Powleys hunted in an area traditional to their specific family. Their argument, in that way, could be said to apply only to those in their historic location rather than anywhere in Canada for any and all Métis. Ontario Justice Education Network, ““*The Métis Hunting Rights Case*”: *R. v. Powley*”, online: Ontario Justice Education Network <ojen.ca/sites/ojen.ca/files/sites/default/files/resources/Powley%20English.pdf>.

After the squawking back and forth was all done, Blue Jay looked down at both Coywolf and Magpie and told them they needed to wait a while. Magpie and Coywolf weren't surprised with having to wait. So they waited.

After (what seemed like) many hours and many days, Blue Jay was ready to chirp about all Blue Jay had seen and been told about Coywolf's claim of just wanting to be left be. Magpie and Coywolf came back to where they argued in front of Blue Jay and Blue Jay told both of them:

You know, Coywolf has to live like the rest of us, and Coywolf has explained *how s/he* has to live, and it's not hurting anyone so why don't we tell others that we will let Coywolf live how Coywolf explained? While we can be sure the rest of us might not agree with how it's done, it doesn't mean it's any more wrong than what the rest of us do.⁴³ So today, Coywolf's story sounds okay! Let's get to know Coywolf, and let Coywolf do what Coywolf has told us about here!⁴⁴

Right away, Coywolf knew Magpie would be mad. After all, Magpie did not get Magpie's way here. And, Magpie did have a history of flying away in anger—especially about Coywolf's and Coyote's ways.⁴⁵ But this time, not only was Magpie furious, Magpie had to tell lots of others he was mad and that Blue Jay could not possibly be right. Moreover, Magpie would not even hear about figuring out some way to talk more about Coywolf's ways being what needed to be accepted.⁴⁶ Instead, and as Coywolf thought Magpie wanted to do, Magpie wanted to go to a higher perch. After all, Magpie suddenly told others, it's not like Blue Jay knows all.

The next perch was one that Grosbeak looked down from. Sometimes getting to know the ground like Blue Jay did, but capable of observing from more branches than Blue Jay could,⁴⁷ Grosbeak thought it would be of interest to hear from Magpie about how Magpie thought Blue Jay was wrong. After all, it was interesting to learn about Coywolf since hardly any stories were around about Coywolf for Old Grosbeak to go to and remember again.⁴⁸ Magpie

⁴³ Coywolves are known to kill moose when desperate for food. Chung, *supra* note 17.

⁴⁴ Blue jays have an urge to supplant others' efforts. As well, a subset of blue jays labeled as "New World Jays" dominates more than blue jays residing in an area for a longer period of time. Keith A Tarvin & Glen E Woolfenden, "Patterns of Dominance and Aggressive Behavior in Blue Jays at a Feeder" (1997) 99:2 *The Condor* 434 at 443. *R v Powley*, 2003 SCC 43, [2003] 2 SCR 207 [*Powley SCC*].

⁴⁵ Ian Urquhart, "Exoneration of Mike Harris? Not in the Least", *The Toronto Star* (1 June 2007), online: [The Toronto Star <https://www.thestar.com/opinion/2007/06/01/exoneration_of_mike_harris_not_in_the_least.html>](https://www.thestar.com/opinion/2007/06/01/exoneration_of_mike_harris_not_in_the_least.html).

⁴⁶ For remarks about the (then) premier's refusal to negotiate during his time in office, see Richard Brennan, "Harris Won't Apologize for Policies: Ontario Government Did What Was Best Despite Opposition, Premier Says", *The Ottawa Citizen* (17 October 1998) A4.

⁴⁷ Audubon, "Rose-breasted Grosbeak *Pheucticus ludovicianus*", *Guide to North American Birds*, online: Audubon <www.audubon.org/field-guide/bird/rose-breasted-grosbeak> [Audubon]. Ontario's Superior Court hears matters on appeal from the Ontario Divisional Court and acts as a trial court for more serious criminal charges. Province of Ontario, "About the Superior Court", *Superior Court of Justice*, online: Ontario Courts <www.ontariocourts.ca/scj/>.

⁴⁸ For how a judge can be a "tough old bird", see Mark Worth, "Judge Vows to Scrutinize Richardson case", *Ocala Star-Banner* (10 April 1989) 3B.

might care too much,⁴⁹ but what would the harm be in hearing about Magpie’s views and then chirping about it later?

Coywolf wasn’t surprised by all this; and because Coywolf wasn’t surprised, Coywolf got ready to see Grosbeak without much protest. Coywolf got ready to yelp “Blue Jay’s vision is good with me! Leave it to Magpie to think we should be here!”⁵⁰ Grosbeak would find out what Blue Jay considered, what Blue Jay decided to tell Magpie and Coywolf and what the effects of those tellings were. It wasn’t up to Grosbeak to search—it was up to Coywolf and Magpie to show Grosbeak.

So Grosbeak heard from Magpie. And then Grosbeak heard from Coywolf. And then Grosbeak heard from Magpie again—since it was Magpie that had to get the attention here.

And then Magpie and Coywolf waited. Not as long as they waited for Blue Jay to see them again. But a little while. Deeper into the winter.

One day that winter Magpie and Coywolf found out Grosbeak was ready to explain Grosbeak’s view of this matter. The eye’s view of Grosbeak was, well, pretty much like what Blue Jay saw:

What Blue Jay saw is what I see. So we can then know about Coywolf like Blue Jay knows. Coywolf, you’re a Coywolf and you have your own ways that need respect! And you’re not Coyote and you’re definitely not Wolf, so there should be no arguing with you having your own ways that are different from either of those fellow creatures.⁵¹

Well if earlier times, even if recent, show habits that turn into repeated patterns—I bet you can just see it—Magpie was infuriated and squawked even louder than when it had learned of Blue Jay’s view. How could Grosbeak think that supporting Blue Jay was a good idea? Wouldn’t more birds now find out and more birds think about Blue Jay having a good eye? Now Grosbeak had to be stopped! And Grosbeak had to be stopped by more than one creature to make sure this view of Blue Jay’s could be stopped altogether and others would learn Coywolf’s ways were not good to learn about and support. Clearly, thought Magpie, Grosbeak did not know enough of what happened on the ground.⁵² So to make things clear, thought Magpie, a whole flock would be needed to tell Grosbeak (and Blue Jay) who’s who in the scheme of things. So Magpie would just go to the Cardinals instead! Maybe those Cardinals

⁴⁹ For analysis of argumentative parties becoming obsessed with issues that ultimately matter little, see the description of “Magpie syndrome” in Edmund R Arnold & Robert T Bottle, “Let’s Get the Most Out of Comprehensive Examinations” (1970) 11: 2 J of Education for Librarianship 111 at 116.

⁵⁰ The appeal for the trial occurred in the same building. Canada, Sault Ste Marie Municipal Heritage Committee, *A Report and Recommendation on the Sault Ste Marie Courthouse* (City of Sault Ste Marie: Community Development and Enterprise Services, 2003) at 2.

⁵¹ Grosbeaks regularly pronounce their views loudly—as compared to being more silent—as a form of protection. Curtis S Adkisson, “Geographic Variation in Vocalizations and Evolution of North American Pine Grosbeaks” (1981) 83:4 *The Condor* 278. :: See *R v Powley* [2000] OJ No 99 (ONSC) (Factum of the Appellant), online: <www.usask.ca/nativelaw/factums/view.php?id=60>. The hearing occurred in mid-October 1999 and this decision was released January 19, 2000.

⁵² See Lyndsay A Smith et al, “Nest-Site Selection of Rose-Breasted Grosbeaks in Southern Ontario” (2007) 119:2 *The Wilson J of Ornithology* 158 at 159. :: Harry J Glasbeek, “Class War: Ontario Teachers and the Courts” (1999) 37:4 *Osgoode Hall LJ* 805.

were a little far away, but, thought Magpie, they were so much more “in the know” and they could tell Grosbeak and Blue Jay what was what! And, even better, they would take those other two birds to task as a flock of three!⁵³

Given how Magpie had acted already, Coywolf wasn’t really surprised that Magpie got a hold of Cardinals. And, well, if Coywolf was honest Coywolf would’ve likely done the same if Blue Jay and Grosbeak hadn’t been so agreeable. But still, so much time and yelping just for the hope of getting respect! It wasn’t like Coywolf was saying Coywolf’s ways were better than any other ways. It was about showing pride in tradition and survival in ways that didn’t hurt any other creature’s own living. And since so many events showed how Coywolf was worse off, why wouldn’t it be good to support those ways? Earlier, Coywolf had watched other birds not quite realise the poor surroundings Coywolf (and Coyote) had.⁵⁴ So if it took meeting Cardinals—who were related to Grosbeak—to get things known about more, it took meeting Cardinals.⁵⁵ And if it took getting ready to take on everything mad Magpie would squawk, that’s what it would take.

So for three days, in front of Cardinals, Magpie kept squawking “Blue Jay got it wrong and Grosbeak got it wrong and Coywolf *is* wrong!”⁵⁶ And as Cardinals said they also wanted to hear from Coywolf, Coywolf had to explain how Coywolf’s story had to survive, and that story was just about having food, not about taking over any other creature in a harmful way. And that Magpie was as wrong as Magpie accused Blue Jay and Grosbeak of being.

And this time, other creatures were watching and even interested in telling what they saw because of all this. Because, after all, if Magpie was so concerned about Coywolf’s role, maybe Cardinals would have something pretty big to say.⁵⁷

Like Grosbeak and Blue Jay, Cardinals told all those there that they couldn’t just say their thoughts right away. So, all concerned would need to wait for a while—again.⁵⁸

⁵³ Cardinals often fly in small groups and communicate while other animals witness. See Gertrude Fay Harvey, “The Diary of a Cardinal’s Nest” (1903) 20:1 *The Auk* 54. ¶ See also Tom Blackwell, “Ontario Metis Win Right to Hunt Without Licence”, *Sudbury Star* (21 January 2000) A7.

⁵⁴ For Indigenous peoples, the standards of what Indigenous conditions are guaranteed by the Constitution are detailed in *R v Van der Peet* [1996] 2 SCR 507, 137 DLR (4th) 289 [*Van der Peet*]. For examples of some of the many responses that argue *Van der Peet* standards are unjust and inconsistent with other tenets in Canadian legal discourse, see Russel Lawrence Barsh & James Youngblood Henderson, “The Supreme Court’s *Van der Peet* Trilogy: Naïve Imperialism and Ropes of Sand” (1997) 42 McGill LJ 993. See also John Borrows, “Frozen Rights in Canada: Constitutional Interpretation and the Trickster” (1997-98) 22:1 *American Indian L Rev* 37.

⁵⁵ Grosbeaks are considered biological “cousins” of the cardinal. Audubon, *supra* note 47. ¶ Both Superior Court justices and provincial appeal court justices are appointed through a federally created system. Office of the Commissioner for Federal Judicial Affairs Canada, “Federal Judicial Appointments - Consider Which Apply to an Application for Appointment”, online: Office of the Commissioner for Federal Judicial Affairs Canada <www.fja-cmf.gc.ca/appointments-nominations/considerations-eng.html>.

⁵⁶ For the Crown’s argument at the Court of Appeal, see *R v Powley*, 53 OR (3d) 35 (ONCA) (Factum of the Appellant), online: <www.usask.ca/nativelaw/factums/view.php?id=15>. The hearing lasted three days and took place on 10, 11, 12 January 2001.

⁵⁷ At the Court of Appeal’s hearing, Aboriginal Legal Services of Toronto, Métis National Council, and the Ontario Métis Aboriginal Association had intervenor status. *Ibid* at 2–3.

⁵⁸ The Ontario Court of Appeal released a unanimous decision on February 23, 2001. *R v Powley*, (2001), 53 OR (3d) 35, [2001] OJ No 607 [*Powley CA*].

After a little while, Cardinals made it known they were ready to tell others what they saw and heard. After all, Cardinals had a role to show how lots of ways could be considered altogether and they needed to do so here.⁵⁹ All Cardinals have their own eyes and ears, but as Magpie and Coywolf learned, Cardinals decided they saw and heard all the same about Coywolf:

If Coywolf says Coywolf has her/his own ways, that's okay with us too. And why wouldn't Coywolf have Coywolf ways? Coywolf is not Coyote, and sure isn't Wolf, so certain ways will be Coywolf-only. Sometimes, they might be similar or even the same to Coyote or Wolf ways. But that's fine. And, we need to remember that if some of those ways are part of making Coywolf what Coywolf is, those ways deserve to be respected! Why are we looking for something—like people look so hard for gold—that will show us what to do when we get to know Coywolf? Those moments will never happen!⁶⁰ We can think of Coywolf today by learning how Coywolf became Coywolf a long time ago—and that can be when Wolf was around.⁶¹ But until Wolf truly moved in to where Coywolf lived—and Magpie took over in a way all of us would keep to—Coywolf's ways prevailed in Coywolf's life.⁶² Those ways, like our ways, keep us where we are and keep us going. Contact is never enough to figure out what or who has the lay of the land. When we control ourselves, or when others' claim of control is shown, that's when Magpie might be able to start flapping about what Magpie and Coywolf can and can't do.⁶³ Coywolf is just trying to be, and that being is not harming us and is letting us keep to our rules in the meantime.⁶⁴ Every story should be heard for what that story is.⁶⁵ And Coywolf's story is that Coywolf has a story we do not know as well as we should and Coywolf can't cope in the meantime.

You'd think Magpie would take Cardinals' song as a sign that Magpie was just too loud and stubborn and unaware—but no! Cardinals' must be wrong too, thought Magpie. What to do next, then, instead of letting Coywolf be? On another perch, considered the strongest and

⁵⁹ Cardinals are known to have the ability to cooperate more easily at difficult moments, even living in the same nest and then raising young together. Alexander F Skutch, "Helpers among Birds" (1961) 63:3 *The Condor* 204. ¶ See *Powley CA*, *ibid.*

⁶⁰ Any evolution, so differences amongst coywolves, is simply part of how the animal adapts to its imposed environmental conditions and "should not be viewed as a negative influence." Jonathan G Way et al, "Genetic Characterization of Eastern "Coyotes" in Eastern Massachusetts" (2010) 17:2 *Northeastern Naturalist* 189 at 198 [Way]. ¶ The Court of Appeal writes about how there is no "golden moment" when Métis suddenly came to be. See *Powley CA*, *supra* note 58 at 99.

⁶¹ Coywolf creation likely "occurred also in the distant past." Lehman et al, "Introgression", *supra* note 11 at 115.

⁶² The Court of Appeal begins to address the matter of how to reconcile Métis constitutionalism within *Van der Peet*'s construction at *Powley CA*, *supra* note 58 at para 98. See generally *Van der Peet*, *supra* note 54.

⁶³ The Appeal Court uses the 1850-1851 implementation of the Robinson Treaties as the date to officially observe Crown sovereignty. By doing so, the Court allows Métis peoples to exist in a "pre-control" way that the court writes is the same as "pre-contact" standards required in *Van der Peet*. See that analysis in *Powley CA*, *supra* note 58 at paras 77-102. See generally *Van der Peet*, *supra* note 54.

⁶⁴ *Powley CA*, *supra* note 58 at 90.

⁶⁵ *Ibid* at 75.

most stretching branch of all places to see, were Woodpeckers. They were more east, and going to see them and get their views would mean Coywolf's story would get even more attention. But Magpie thought Coywolf's story needed to be dismissed more than Magpie fretted about getting more attention about this whole mess. But Magpie believed Woodpeckers, who could look black and white one day and more red and white the next, were the brilliant ones.⁶⁶ They would get it right. And, after all, if any branch spoke of basing a new story on the qualities of older stories, it was Woodpeckers who pecked that point into everything they understood and stood on.⁶⁷ While going to see Woodpeckers was yet another event to get ready for, Coywolf wasn't really that surprised. So getting more prepared for a different branch was all part of this whole idea of getting more respect. It's not like Coywolf didn't imagine the meeting with Blue Jay would be the end of it, after all. Coywolf had been so forgotten for such a long time, getting ready for more than one part of a change was simply what happened—over and over again.⁶⁸

So there Coywolf was, again having to hear Magpie's squawks and having to squawk after that Blue Jay's understanding and Grosbeak's understanding and (especially) Cardinals' understandings were just fine thankyouverymuch. And no surprise here, lots of others wanted to see this whole back and forth in front of Cardinals. And some of them wanted to do a little squawking themselves. Some relatives of Magpie and some of Coywolf. Some who sometimes liked Magpie one day, and then shared something in common with Coywolf the next.⁶⁹ Woodpeckers decided they could listen for a little longer than Cardinals did, but not too much more. Like Cardinals, Woodpeckers also told all those watching and fighting that they needed some time to think about all that was told to them. So all those watching and fighting had to wait around again to learn what this branch believed about Coywolf's dream to be respected as Coywolf and to be let be.⁷⁰

⁶⁶ Woodpeckers have the ability to “orient...in precise positions...even when positioned incorrectly” by another bird or condition. Xianfeng Yi, Michael A Steele & Zhen Shen, “Manipulation of Walnuts to Facilitate Opening by the Great Spotted Woodpecker (*Picoides Major*): is it Tool Use?” (2014) 17:1 *Animal Cognition* 157 at 160. ¶ For remarks about how an appeal justice's skills must include “superior intellectual ability” that helps a justice sift through complicated argumentation that might be improperly constructed, see Matthew Shoemaker, “Bilingualism and Bijuralism at the Supreme Court of Canada” (2012) *Can Parliamentary Rev* 30 at 31.

⁶⁷ *Powley CA*, *supra* note 58 at 90.

⁶⁸ In the Supreme Court's analysis in *Powley*, the Court writes “the Métis as a group were explicitly excluded.” *Powley SCC*, *supra* note 44 at 46.

⁶⁹ During the Supreme Court of Canada's oral hearing of *Powley*, Canada, Quebec, New Brunswick, Manitoba, British Columbia, Saskatchewan, Alberta and Newfoundland and Labrador all appeared as intervenors. In addition, the Labrador Métis Nation, the Congress of Aboriginal Peoples, the Métis National Council, the Métis Nation of Ontario, the Ontario Métis and Aboriginal Association, the Red Sky Métis Independent Nation and the North Slave Métis Alliance all also received intervenor status. *Powley SCC*, *supra* note 44.

⁷⁰ Approximately six months passed between the hearing and the Supreme Court releasing its decision. The hearing occurred March 17, 2003 and the decision was released September 19, 2003.

As Coywolf waited, Coywolf remembered how once s/he had to yelp really really loud: “We know who we are!”⁷¹

And Coywolf also remembered how lots of times, Coywolf’s life was about thinking so smartly about how to do something with stuff that others thought was worth nothing.⁷² Sometimes Coywolf made mistakes. And sometimes the effects of those mistakes were huge.⁷³ But Coywolf kept thinking Coywolf’s mistakes seemed so much more significant to others than if they had made the same mistake themselves.

Sometimes, others had let Coywolf be.⁷⁴ So Coywolf knew it was possible for others to notice Coywolf, respect Coywolf’s life, and go on with their own lives in the meantime. But Magpie seemed obsessed with ending Coywolf’s ways—even the ones that helped Coywolf be less of a burden to Magpie.⁷⁵ And what was logical about that? Didn’t that mean then, at (almost) any cost, Magpie still wanted to get rid of Coywolf’s ways for good, because they belonged to Coywolf and not because those ways worked? So in having to take Magpie on, get all ready for Blue Jay and then Grosbeak and then Cardinals and then Woodpeckers, Coywolf knew it was just right to yelp up! Maybe all Magpie needed was to hear from others that Coywolf was nothing to be scared of and everything to be proud of. And if it took all of those birds to tell Magpie that, well, Coywolf would be alright with that.⁷⁶

⁷¹ A study that imagined the coywolf as its own species that evolved on its own while “only minimally influenced by either parental species” appears in Steven M Chambers, “A Perspective on the Genetic Composition of Eastern Coyotes” (2010) 17:2 *Northeastern Naturalist* 205 at 210. He also notably denotes the species having a “hybrid origin” but no longer hybrid in primary form. Indeed, he later writes how the coywolf represents an “emerging new species”. *Ibid* at 207. ¶ This phrase (“We know who we are!”) was stated by Harry Daniels during a presentation in 1980 in front of both Members of Parliament and Senators. Senate, House of Commons, Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada, 17: 2-12-1980, 132.

⁷² Meet the Coywolf, *supra* note 23 at 00h:30m:45s-00h:32m:00s. To survive, the animal eats cat food at night after it has trained itself to become nocturnal.

⁷³ Duane Champagne, “Colonialism as Trickster”, *Indian Country Today* (20 April 2015), online: Indian Country Today <indiancountrytodaymedianetwork.com/2015/04/20/colonialism-trickster-159959>. For remarks about the negative impact of litigation, including the effects any poor results have on future negotiations, see generally Shin Imai, “Creating Disincentives to Negotiate: *Mitchell v. M.N.R.*’s Potential Effect on Dispute Resolution” (2003) 22 *Windsor YB Access Just* 309. For a particular example of Métis litigation that has received mixed responses in Métis circles, see *R v Blais*, 2003 SCC 14, [2003] 2 SCR 236.

⁷⁴ Shari Narine, “Fishing Without License Charges Dropped Against Saskatchewan Métis” *Alberta Sweetgrass* (1 August 2009), online: The Free Library <www.thefreelibrary.com/Fishing+without+license+charges+dropped+against+Saskatchewan+Metis.-a0206867067>.

⁷⁵ Divya Rao, “The Genesis of ‘Coywolves’: A Story of Survival”, *EarthJustice* (9 December 2015), online: EarthJustice <earthjustice.org/blog/2015-december/the-genesis-of-coywolves-a-story-of-survival/>. See Corwyn Friesen, “Province to Create Flexible Marketing Options for Commercial Fishers”, *MySteinbach* (21 August 2016), online: MySteinbach <www.mysteinbach.ca/news/179/province-to-create-flexible-marketing-options-for-commercial-fishers>. ¶ Note how it is reported the provincial Minister of Sustainable Development Cathy Cox used the terms “Indigenous and Métis fishers” which suggests Métis are not considered Indigenous.

⁷⁶ For a more recent commentary on how efficiency is achieved by learning more about earlier relationships that were assumed to be oppositional, see Brigitte C Madrian, “Applying Insights from Behavioral Economics to Policy Design” (2014) 6 *Annual Rev of Economics* 663.

When the waiting time had passed, all who wanted to learn about the Coywolf-Maggie dispute found out the Woodpeckers drummed altogether.⁷⁷ The Woodpeckers announced to everyone:

We wanted to think about what Cardinals decided. And *how* Cardinals found it. And we think what Cardinals found was right. And how they found—that was even more correct! Think about how they noticed we can't have one magic event to show when Coywolf started to be part of the land.⁷⁸ And even if Magpie squawks that we showed Coywolf's existence was impossible earlier, so what? We have more knowledge now!⁷⁹ And we need to thank Cardinals for showing such a golden way to explain to Magpie why that is the case. Magpie, do you really think what you squawk about is really the case? The case to bring before us? The case to stop Coywolf? Not this story today! And not here!

So, Magpie had gone to a place where he claimed Blue Jay was the wisest. And then Magpie decided Blue Jay wasn't as smart as Grosbeak. And then Cardinals had to be met to show Grosbeak how to be proper. And then, Woodpeckers had to be met to show all of those other old birds what's what. And then Woodpeckers heard what Magpie told them, except the what's-what ended up being all for Coywolf! Magpie had to squawk and squawk to try and get Coywolf's ways stopped, and now more knew about the squawking and more knew about Coywolf! And, as important to Coywolf, more knew about Coywolf's *ways*. Sometimes, Coywolf thought, it's not about squawking. The loudest aren't the rightest. The most respectful, to the land and then to themselves, show what's right. And that's all Coywolf had shown in being Coywolf.

Even after all this having to get noticed by the highest perches, it's still hard for Coywolf. Coywolf's life still seems to be made up of ways that others sometimes don't know or don't like. Lots of times, others are trying to stop Coywolf whether they know it or not. Like when they take a forest down, or when a rule is made that is about Coywolf without taking Coywolf's life ways into account—so then the rule doesn't even do what it was supposed to do!⁸⁰ And during those hard times, those others make Coywolf do all this work to prove that Coywolf's ideas matter, rather than just trusting Coywolf's ideas should be respected.⁸¹

⁷⁷ The strong cognitive ability of woodpeckers is called “drumming”, where they demonstrate their abilities for other birds and animals to observe by sound and impact. Richard N Conner & Daniel Saenz, “Woodpecker Excavation and Use of Cavities in Polystyrene Bags” (1996) 108:3 *Wilson Bull* 449 at 455. See generally *Powley SCC*, *supra* note 44.

⁷⁸ *Powley SCC*, *supra* note 44 at para 38.

⁷⁹ The Supreme Court in *Powley* also uses *Van der Peet* in a way to have Métis issues still fit into the 1996 decision's structure. *Ibid* at para 15. See generally *Van der Peet*, *supra* note 54.

⁸⁰ For responses to coywolves, see Jennifer O'Brien, “Wild in the City”, *The London Free Press* (19 February 2013), online: The London Free Press <www.lfpress.com/2013/02/19/wild-in-the-city>. ❧ Other circumstances have led to litigation about Métis peoples. Some of those cases eventually were evaluated by the Supreme Court of Canada. See e.g. *R v Blais*, 2003 SCC 44, [2003] 2 SCR 236; *Alberta (Aboriginal Affairs and Northern Development) v Cunningham*, 2011 SCC 37, [2011] 2 SCR 670; *Manitoba Metis Foundation Inc v Canada (Attorney General)* 2013 SCC 14, [2013] 1 SCR 623; *Peavine Métis Settlement v Alberta (Minister of Aboriginal Affairs & Northern Development)*, 2007 ABQB 517, [2007] AJ No 913.

⁸¹ “Métis Nation Finally Coming of Age”, *Fort Frances Times* (22 October 2003) A1 & A6.

Some others keep thinking Coywolf is just two halves rather than a whole creature.⁸² Other creatures, trying to make their lives easier and then making Coywolf's life harder, work really hard to get Coywolf called a Coyote or Wolf to make some other problem disappear.⁸³

But they shouldn't do that. And, as Coywolf has shown, Coywolf will make sure they can't. If it takes going to Blue Jay, and going to Grosbeak, and going to Cardinals, and going to Woodpeckers, Coywolf will go. Coywolf will have this first story of going to all of these old birds, and that story will be one no one will be able to forget!

Who knows what will happen to Coywolf tomorrow, or even in the spring or summer?⁸⁴ Or even next year? Who knows when Coywolf will have to go to Court?

One thing is for sure—you might think it's alright to forget about Coywolf. But Coywolf has been treated wrongly, or not even treated in some way at all. And that is not kind. And it might even make Coywolf stronger. Maybe, just maybe, we can think Coywolf has something to teach us about survival, and getting along, and shifting ways that can make all creatures do better, now *and* later. And that Coywolf shows how to make it when times are good but how to make it even in the hardest times?⁸⁵ And that making it through the hardest times is what we need to be really good at? That isn't pesky.⁸⁶ Or nothing. Or half of one thing and half of another.⁸⁷ It just is Coywolf. Coywolf *is*. Right in front of you. Whether you see Coywolf or not.⁸⁸ What you've told Coywolf to do in the past, if it's not very Coywolf in nature, you

⁸² For commentary about how such a belief has been perpetuated by academic analysis, see generally Philip J Deloria, "What is the Middle Ground, Anyway?" (2006) 63:1 *The William and Mary Q* 15.

⁸³ Arguments by Métis that rely upon cases involving other Indigenous peoples will likely increase as more agreements between the Crown and various Métis groups are considered "treaties"; arguing along the lines of other Indigenous groups could be a matter of interpretation when learning more about how Métis were included in historic treaties. Shari Narine, "Métis Treaties, Agreements, Focus of Five-Year Study" (2015) 22:2 *Alberta Sweetgrass* 4.

⁸⁴ Way, *supra* note 60 at 199. ¶ In the spring of 2016, the Supreme Court of Canada released the unanimous *Daniels v Canada (Indian Affairs and Northern Development)*. *Daniels SCC*, *supra* note 31. Reactions to the decision are mixed. See Bruce McIvor, "What Does the Daniels Decision Mean?" (20 April 2016), First People's Law (blog), online: First Peoples Law <www.firstpeopleslaw.com/index/articles/248.php>.

⁸⁵ Coywolves form important "social groups" of unrelated but familiar individuals. Way, *supra* note 60 at 190. As well, even when facing a law that allows "unlimited killing...it does not greatly affect their overall population sizes." *Ibid* at 199. In fact, wolves are more impacted by exploitation. *Ibid* at 200. Notably, in this article, the authors disagreed with the publication and wanted "coywolf" used throughout, but the publisher stated that unless recognized in professional zoological classifications, the publishers would not use the term. ¶ For an argument that Métis families often have the strongest and oldest examples of sustainable development, see Signa AK Daum Shanks, *Searching for Sakitawak: Place and People in Northern Saskatchewan's Île-à-la-Crosse* (PhD Dissertation, Western University, 2015) [unpublished] at 7.

⁸⁶ The idea that Coywolves are considered pesky continues. See Matt Hickman, "Is the Coyote Takeover of New York City Imminent?", *Mother Nature Network* (26 January 2015), online: Mother Nature Network <www.mnn.com/earth-matters/animals/blogs/is-the-coyote-takeover-of-new-york-city-imminent>. For the Métis being pesky, see *supra* note 32.

⁸⁷ Darren O'Toole, "Thomas Flanagan on the Stand: Revisiting Métis Land Claims and the *List of Rights* in Manitoba" (2010) 41:1 *J of Can Studies/Revue internationale d'études canadiennes* 137.

⁸⁸ Jonathan G Way, "Why the Eastern Coyote Should be a Separate Species: The 'Coywolf'", *IFL Science* (13 May 2016), online: IFL Science <www.iflscience.com/plants-and-animals/why-eastern-coyote-should-be-separate-species-coywolf>.

might think it'll work, but let me tell you now it will never last.⁸⁹ Because Coywolf has to live, just like you. And because *your* rules *you* made—without taking Coywolf's life ways into account—are rarely good for how the land works anyway.⁹⁰ That, in the end, is what you need to know. *That*. Coywolf's ways can work for you too.

So that is why Coywolf goes to court.⁹¹ To tell you *that*—Coywolf should be Coywolf and Coywolf knows how to let the land, and you, be. And I wanted to tell you now, any mistakes and all, so then you and I will know each other better now and later and realise how much better it is to just welcome Coywolf to the neighbourhood.⁹² Just like Coywolf wants, and just as all deserve.⁹³

That's all for now—until we meet again.

⁸⁹ Abella J writes for the Supreme Court in *Daniels*: “There is no consensus on who is considered Métis...nor need there be. Cultural and ethnic labels do not lend themselves to neat boundaries.” *Daniels SCC, supra* note 31 at para 17.

⁹⁰ Jason Madden, “Simple Ruling, Profound Impact”, *Edmonton Journal* (23 April 2016) A13.

⁹¹ Thomas King writes that when learning a story, the next stage is to realize how “it’s yours. Do with it what you will. Tell it to friends. Turn it into a television movie. Forget it. But don’t say in the years to come that you would have lived your life differently if you have heard this story. You’ve heard it now.” Thomas King, *The Truth about Stories: A Native Narrative* (Toronto: House of Anansi Press, 2003) at 29. See Bartosz Brożek, “Analogy in Legal Discourse” (2008) 94:2 Archives for Philosophy of L & Social Philosophy 188.

⁹² Rob Wile, “There Are Now Millions of Coywolves roaming America”, *Fusion* (30 October 2015), online: fusion.net/story/224645/coywolf-combination-dog-coyote-wolf-roams-america/.

⁹³ The author is Métis. In my own struggles for familial self-identity along with learning more about Indigenous cultural heritage as time passes, I appreciate the observation that “there are good reasons—largely occupationally based and kinship based—to think that the connections between Red River and parts of Ontario warrant at the very least a discussion about their (Ontario families’) inclusion within the Métis Nation.” Chris Andersen, *Métis: Race, Recognition, and the Struggle for Indigenous Peoplehood* (Vancouver: UBC Press, 2014) at 53. I consider the fact pattern of the Powley family’s courtroom struggle one of those histories that can illustrate a connection between Ontario communities and those Métis communities in western Canada. For additional information about projects delving into the matter of a long history and specific territoriality impacting who is Métis, see the efforts that are part of The Métis Treaties Research Project, online: www.metistreatiesproject.ca/.