By Meredith O'Harris, Editor in Chief & Nathan Goetting, Articles Editor

The Left doesn't have much to thank Associate Justice Anthony Kennedy for. During his 30 years on the Supreme Court, he generally helped move the nation rightward and was especially reactionary late in his career on issues involving workers' rights[1] and allowing corporate money to influence elections,[2] using his status as the Court's "swing vote" to determine the outcomes of major cases in both areas. But there were a few aspects of the law in which this Reagan appointee genuinely surprised and strengthened progressive political movements. One was juvenile sentencing.[3]

During the seven years between 2005 and 2012, Kennedy became an unlikely progressive champion of children's rights in a trio of 5-4 cases (even penning the majority opinion in two of them). In the most recent of these cases, *Miller v. Alabama*, Kennedy helped transform the United States from a draconian nation that allowed children to be sentenced to die,[4] to a draconian nation that at least prohibits sentencing children to life in prison without the possibility of parole (LWOP).[5]

Although *Miller* was rightly decided, it left many issues unresolved and injustices unredressed for juvenile "lifers." Presently, it remains unclear how the parole process should work for these individuals, now that they're entitled to the possibility of parole. Some states are using "Risk Assessment Instruments," designed for adult offenders, to determine their parole eligibility. But while these assessment tools theoretically allow for juveniles' eventual release, they may unintentionally preclude it through their assessment criteria—leaving *Miller* an empty promise. Consequently, juveniles remain in prison indefinitely; a *de facto* life sentence. In our feature article,

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Preface, Continued....

"Navigating *Miller v. Alabama* with COMPAS: How Risk Assessment Instruments Square with a Meaningful Opportunity for Release," Emily Barber questions whether these assessment instruments are compatible with *Miller's* underlying purpose: giving children a second chance.

Next, Mathew L.M. Fletcher, Professor of Law and Director of the Indigenous Law & Policy Center at Michigan State University College of Law— one of the world's leading scholars in Indian law—reviews *North American Genocides: Indigenous Nations, Settler Colonialism, and International Law,* written by human rights activists and scholars Laurelyn Whitt and Alan W. Clarke. Clarke is a longstanding member of the NLG and contributing editor of our *Review.* Fletcher's review inspires readers to further explore this essential area of human rights scholarship.

We have another excellent and timely book review by former National Lawyers Guild President Michael Avery. In 2013, Avery co-authored *The Federalist Society: How Conservatives Took the Law Back from Liberals* with Daniele McLaughlin, a book that presented a captivating account of the ascendency of the legal right. His expertise in this area made him an ideal person to review NLG member Jack Jackson's recent work, *Law Without Future: Anti-Constitutional Politics and the American Right*, which seeks to explain how the meaning of the Constitution has changed in the era of Donald Trump.

Speaking of The Federalist Society, we close this issue with a fiery assault upon it by long-time NLG member and our Articles Editor, Nathan Goetting, Professor of Criminal Justice and Jurisprudence at Adrian College. Last fall, Goetting was invited to respond to a speech sponsored by the Toledo Student Chapter of The Federalist Society at the University of Toledo College of Law by prominent National Rifle Association (NRA) lawyer Stephen P. Halbrook. Naturally, Goetting saw this as an opportunity to participate in an urgent battle of ideas against FedSoc and the NRA, two of the nation's most dangerous political organizations primed to take over the judiciary. "The Second Amendment Hustle" is an adaptation of Goetting's remarks at the event, where he made his case against the NRA to a NRA-friendly audience, and he made his case against The Federalist Society to one of its student chapters.

NOTES

1 *Janus v. AFSCME*, 138 S. Ct. 2448 (2018).

2 *Citizens United v. FEC*, 558 U.S. 310 (2010).

3 *Roper v. Simmons*, 543 U.S. 551 (2005); *Graham v. Florida*, 560 U.S. 48 (2010), where Chief Justice Roberts concurred with the judgment but not with Kennedy's decision; *Miller*, *supra*, note 4.

4 *Stanford v. Kentucky* 492 U.S. 361 (1989).

5 *Miller v. Alabama*, 567 U.S. 460 (2012).