sentenced to confinement in a * * * Federal penitentiary" in the Act of April 2, 1918, it did not have in contemplation such action as the courts may now take under the Probation Act in suspending the execution of a sentence to imprisonment. Even if it were assumed that section 2 of the Probation Act empowers the court to change its sentence after the expiration of the term at which it was imposed, it would not be necessary to conclude that the granting of such a new power would affect the requirements for dismissal from the Navy as fixed by the Act of April 2, 1918, or change the meaning of the language of that statute as understood at the time of its enactment.

The words "finally sentenced," as used in that Act, seem to me to mean that, before the fact of unfitness required as the basis of dismissal from service is established, the officer should have the opportunity of exhausting all remedies by appeal or otherwise which might be available to alter or set aside the final judgment of the court. This opportunity was available to Tangren until the expiration of his time to appeal and of the term at which he was sentenced.

It is my opinion, therefore, that A. E. Tangren has been "finally sentenced to confinement in a * * * Federal penitentiary" and consequently may be dropped from the rolls of the Navy by the President, under the authority of the Act of April 2, 1918, supra.

Respectfully,

WILLIAM D. MITCHELL.

To the Secretary of the Navy.

OFFENSES COMMITTED UNDER SECTION 504, WORLD WAR VETERANS' ACT—EFFECT OF PARDON

One Leroy Damron pleaded guilty in a Federal court "to making a false and fraudulent statement concerning his claim as a vocational trainee," under section 504 of the World War Veterans' Act, as amended. Upon his conviction, sentence was suspended and he was placed on probation. Subsequently the President granted him "a full and unconditional pardon for the purpose of releasing him from probation and restoring his civil rights." Held that the pardon of Damron by the President restored him, as of the date of the pardon, to the rights to which he was entitled under Titles II and IV of the World War Veterans' Act, as amended, prior to the commission of his offense.
Offenses under Section 504, World War Veterans' Act

DEPARTMENT OF JUSTICE,
March 17, 1930.

Sir: I have the honor to refer to your letter of December 7, 1929, from which it appears that one Leroy Damron pleaded guilty in the United States District Court for the Southern District of California, "to making a false and fraudulent statement concerning his claim as a vocational trainee," under section 504 of the World War Veterans' Act, 43 Stat. 607, 629, as amended by the Act of March 4, 1925, 43 Stat. 1302, 1312 (U. S. C., Title 38, sec. 555). Upon Damron's conviction sentence was suspended and he was placed on probation. Subsequently, on April 23, 1929, the President of the United States granted him "a full and unconditional pardon for the purpose of releasing him from probation and restoring his civil rights."

It appears that by committing the offense described Damron forfeited, under section 504 of the World War Veterans' Act, as amended, supra, all right to compensation and other benefits under Titles II and IV of that Act. You request my opinion as to whether the pardon of the President restores Damron's right to such compensation and other benefits.

Section 504, supra, provides:

"Any person who shall knowingly make or cause to be made, or conspire, combine, aid, or assist in, agree to, arrange for, or in any wise procure the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, or writing purporting to be such, concerning any claim or the approval of any claim for compensation or maintenance and support allowance, or the payment of any money for himself or for any other person, under Titles II or IV hereof, shall forfeit all rights, claims, and benefits under said titles, and, in addition to any and all other penalties imposed by law, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than $1,000 or imprisonment for not more than one year, or by both such fine and imprisonment, for each such offense."

Section 504 is found in Title V of the World War Veterans' Act, entitled "Penalties," 43 Stat. 607, 629 The
To the Director of the United States Veterans' Bureau

plain purpose of the section, as indicated by its language, was to impose a penalty for the commission of the offense described. The penalty included not only the forfeiture of rights under Titles II and IV of the Act, but also, upon conviction of the offense, punishment by fine or imprisonment.

The pardon clause of the Constitution, Article II, section 2, provides that the President "shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment."

Referring to this clause in Ex parte Garland, 4 Wall. 333, 380-381, the Supreme Court said:

"The power thus conferred is unlimited, with the exception stated. It extends to every offence known to the law, and may be exercised at any time after its commission, either before legal proceedings are taken, or during their pendency, or after conviction and judgment. This power of the President is not subject to legislative control. Congress can neither limit the effect of his pardon, nor exclude from its exercise any class of offenders. The benign prerogative of mercy reposed in him can not be fettered by any legislative restrictions.

"Such being the case, the inquiry arises as to the effect and operation of a pardon, and on this point all the authorities concur. A pardon reaches both the punishment prescribed for the offence and the guilt of the offender; and when the pardon is full, it releases the punishment and blots out of existence the guilt, so that in the eye of the law the offender is as innocent as if he had never committed the offence. * * *

"There is only this limitation to its operation: It does not restore offices forfeited, or property or interests vested in others in consequence of the conviction and judgment."

In Knote v. United States, 95 U. S. 149, 153-154, the Supreme Court said:

"* * * A pardon is an act of grace by which an offender is released from the consequences of his offence, so far as such release is practicable and within control of the pardoning power, or of officers under its direction. It releases the offender from all disabilities imposed by the
offence, and restores to him all his civil rights. In contemplation of law, it so far blots out the offence, that afterwards it can not be imputed to him to prevent the assertion of his legal rights. It gives to him a new credit and capacity, and rehabilitates him to that extent in his former position. But it does not make amends for the past. If affords no relief for what has been suffered by the offender in his person by imprisonment, forced labor, or otherwise; it does not give compensation for what has been done or suffered, nor does it impose upon the government any obligation to give it. The offence being established by judicial proceedings, that which has been done or suffered while they were in force is presumed to have been rightfully done and justly suffered, and no satisfaction for it can be required. * * *"

See also Ex parte Grossman, 267 U. S. 87, 120.

It is further held that the constitutional grant of authority to pardon offenses carries with it the "power to release penalties and forfeitures which accrue from the offenses." Osborn v. United States, 91 U. S. 474, 478; Illinois Central R. Co. v. Bosworth, 133 U. S. 100.

The principles above set forth govern and answer the question submitted. The forfeiture of Damron's rights under Titles II and IV of the Act and his conviction were both based upon the one offense of "making a false and fraudulent statement concerning his claim as a vocational trainee." The offense committed, a violation of a law of the United States, was clearly one against the United States. See Ex parte Grossman, 267, U. S. 87, 115. Accordingly the full and unconditional pardon of the President remitted all penalties consequent upon the commission of the offense, including not only the punishment incident to the conviction but also the forfeiture.

It is my opinion, therefore, that the pardon of Damron by the President restored him, as of the date of the pardon, to the rights to which he was entitled under Titles II and IV of the World War Veterans' Act, as amended, supra, prior to the commission of his offense.

Respectfully,

WILLIAM D. MITCHELL

TO DIRECTOR, UNITED STATES VETERANS' BUREAU.