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125 (1917); Lindahl v. Supreme Court I.O.F., 100 Minn. 87, 110 N.W. 358 (1907); Swee-ney v. Northwestern Mut. Life Ins. Co., 251 Ill. App. 1 (1928). The better view is that not so great a degree of proof is necessary. Von Crome v. Travelers' Ins. Co., 11 F. (2d) 350 (C.C.A. 8th 1926); Modern Woodmen of America v. Craiger, 175 Ind. 30, 92 N.E. 113 (1910); Hawkins v. Kronich Cleaning, etc., Co., 157 Minn. 33, 195 N.W. 766, 36 A.L.R. 394 (1923) (overruling the Lindahl case); 23 Col. L. Rev. 286. This differ-
ence is due to the fact that the courts holding the former view consider the presump-
tion as evidence.

Hubert C. Merrick

Practice—Power of Court To Amend Sentence at Subsequent Term—Probation Act—[Federal].—One Antinori was sentenced to four years imprisonment in 1929, but sentence was suspended and he was placed on probation under the Probation Act, 43 Stat. 1259, 1260 (1925), 18 U.S.C. §§ 724–727 (1926). In 1931 Antinori's probation was revoked and he was sentenced to twelve months' imprisonment. This sentence was af-
firmed in United States v. Antinori, 59 F. (2d) 171 (C.C.A. 5th 1932) and the mandate of affir-
mance was duly entered by the district court on July 18, 1932. On the same day the defendant district judge undertook to amend the twelve months' sentence to imprisonment for one hour. Held, the trial court did not have power to amend the sen-
tence after the mandate of affirmance had been duly entered and the term at which the original sentence of twelve months had been imposed had expired. United States v. Akerman, 6 F. (2d) 570 (C.C.A. 5th 1932).

The problem here raised is with regard to the effect of the probation act on the federal court's power to amend sentence after the term at which sentence was imposed has expired. Section 724, 18 U.S.C. (1926) provides for suspension of sentence and proba-
tion of the defendant, but: "... The Court may revoke or modify any condition of probation or may change the period of probation." The district court had power to enter the sentence of twelve months imposed in 1931 even though that sentence was imposed after the term of the original sentence had expired. Riggs v. United States, 14 F. (2d) 5 (C.C.A. 4th 1926), certiorari denied in 273 U.S. 719, 47 Sup. Ct. 110, 71 L. Ed. 857 (1926); United States v. Antinori, 59 F. (2d) 171 (C.C.A. 5th 1932).

The words of the statute are capable of several reasonable interpretations as to just what power the court has over its judgments. Intrinsically the language of the statute could be construed to impart to the courts the power to make what orders they deem advisable, either as to probation or sentence, at any time within the period for which the defendant might originally have been sentenced. Thus the court in the instant case could have imposed the one hour sentence even after term because the period for which defendant might originally have been sentenced does not expire until 1933. This may be an extremely liberal interpretation of the language of the act but it is essentially plausible, especially as, according to the cases, this is legislation of a highly remedial character and as such is entitled to a liberal construction. Riggs v. United States, 14 F. (2d) 5, 7, 9 (C.C.A. 4th 1926); United States v. Chafina, 14 F. (2d) 622 (D.C. Ariz. 1926); Reeves v. United States, 35 F. (2d) 323 (C.C.A. 8th 1929); and see Beggs v. Superior Court of Santa Clara County, 179 Cal. 130, 133 et seq., 175 Pac. 642, 644 et seq. (1918) (dissenting opinion), for a good discussion of the purpose and construction of such legislation. Under this view the court would have power to make what orders it
deems advisable at any time before the maximum period for which the defendant might originally have been sentenced has expired.

Another possible construction which may be put upon the statute is that which the court in the instant case adopted. See page 570: "The provisions of the act were exhausted when probation was revoked and 'such sentence imposed as might originally have been imposed.' " The court felt that the twelve months' sentence was final in the same way that all criminal sentences were before the probation act and that the court had, therefore, no power to change the sentence after the term at which it was imposed had elapsed. Ackerson v. United States, 15 F. (2d) 268 (C.C.A. 2d 1926); Scalia v. United States, 62 F. (2d) 220 (C.C.A. 1st 1932).

A third possible interpretation of the language of the act is that contended for by the government in United States v. Antinori, 59 F. (2d) 171 (C.C.A. 5th 1932), to wit, that although the act gave the court the power to revoke probation and impose execution of sentence after the term had expired, still the court could not alter the sentence which it had originally imposed. Due to the fact that much of the effectiveness of the probation proceedings depends on the sentence hanging over the head of the defendant and that for this reason the courts impose heavier sentences than they would if the defendant were not to be put on probation, this would work a hardship on the defendant or would hamper the effectiveness of this remedy as administered by the court. Because this is remedial legislation and entitled to liberal interpretation and because this view would seriously prejudice the effective achievement of the purpose of the statute, it is believed that such a construction would be undesirable and palpably inconsistent with the general purposes of the act.

The middle ground of the possible constructions mentioned herein (the one which the court in the instant case adopts) would seem to be the best. The words of the statute do not lend themselves very happily to the construction that the court is empowered to change the sentence when the defendant is no longer on probation, unless the words are expressive of very general powers, but such an interpretation seems to be at least a strain on the language employed by Congress. The salient effect of probation, however, depends so greatly on the indefinite and intimate phenomena of which the trial court is exclusively cognizant that much may be said for the contention that the trial court should be able to control the prisoner up to the time when he is either discharged or actually incarcerated, expiration of terms notwithstanding. The writer feels, however, that such power must come from supplementary legislation and that the court took the most reasonable and most easily justified of the possible constructions available.

CHARLES GRAYDON MEGAN

Suretyship—Liability for Default of Infant Principal—Damages—[Indiana].—Infant vendee of an automobile disaffirmed his conditional sales contract, returned the chattel, and recovered the amount paid to the vendor, who now claims against the sureties on the vendee's purchase note. Held, that the vendor should recover the amount of the note (which was substantially the contract price) and that title to the car should pass to the sureties when the note or judgment is paid. McKee v. Harwood Automotive Co., 183 N.E. 646 (Ind. 1932) affirming 162 N.E. 62 (Ind. App. 1928).

Where a person sui juris guarantees the obligation of, or becomes surety for a minor,