RULE 60. RELIEF FROM JUDGMENT OR ORDER

(a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed in the Superior Court or Law Court, and thereafter while the appeal is pending may be so corrected with leave of the Superior Court or Law Court.

(b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc. On motion and upon such terms as are just, the court may relieve a party or the party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of bills of review are abolished as means of reopening judgments entered under these rules, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

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This rule is substantially the same as Federal Rule 60. Rule 60(a) presents no significant problems. The trial court has the power of correction at any time. This is the present Maine law. *Bubar v. Sinclair,* 146 Me. 155, 79 A.2d 165 (1951). The correction may be made during the pendency of an appeal if the Law Court gives leave. It is not clear whether this is a change in Maine law. *Cf. Davis v. Cass,* 127

Me. 167, 142 A. 377 (1928) (correction not allowed after judgment, as "the parties were out of court, [and] the judicial power of the court ceases").

Rule 60(b) collects in a single rule all of the ways to obtain relief from a final judgment. A simple motion to the court in which the judgment in the action was rendered serves the function of the old writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, all of which are expressly abolished as a means of reviewing a judgment under these rules. They are not abolished as to criminal cases.* An independent action to relieve a party from a judgment is not forbidden by the rule, and under established equitable principles such an action may be maintained either in the court which rendered the original judgment or in another court.

The grounds for relief should not require elaboration. Compare the grounds stated in R.S.1954, Chap. 123, Sec. 1 (VII) for a petition for review (repealed in 1959). The time limitations are two-fold in nature: First, all motions must be made within a reasonable time, the test of timeliness here being laches. Second, motions on the first three enumerated grounds must be made within one year after judgment. The time limits for petitions for review in Maine are longer, either 3 years or 6 years, depending upon the cause. R.S. 1954, Chap. 123, Sec. 1 (repealed in 1959). And a second review may be granted within 3 years after judgment in the first if the court thinks "that justice manifestly requires it."

A motion under Rule 60(b) does not affect the finality of the judgment or suspend its operation.

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* [Field, McKusick & Wroth noted: "Since enactment in 1963 of the Post-Conviction Relief Act, 14 M.R.S.A. §§ 5502-08, and promulgation of the Maine Rules of Criminal Procedure in 1965, this statement requires some qualification. *See* § 81.3 below. *Cf.* M.R. Cr.P. 35, 36; Glassman § 35.5." 2 Field, McKusick & Wroth, *Maine Civil Practice* at 69 (2d ed. 1970)].