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NECESSITY OF MOTION FOR NEW TRIAL WHEN VERDICT DIRECTED.—It has been a fundamental rule of procedure in West Virginia, emphasized by decisions, both early and late, too numerous to mention,[1] that when a case has been tried before a jury, no appellate relief involving exclusively trial error can be sought in the Supreme Court of Appeals unless a motion in the trial court to set aside the verdict has first been made and acted upon. Justification of this rule is based on the assumption that, in the course of a trial by jury, the court must rule hurriedly on objections interposed, in order that the case may be submitted to the jury without delay, and rence may commit errors which it will concede on due deliberation and, by granting a new trial, prevent the delay and expense of a writ of error to obtain the same result.

> "The rulings of the court during the trial are often necessarily hastily made, and if a motion is made for a new trial on the ground of erroneous rulings made at the trial, the court may at his leisure critically review his rulings, and, if convinced that they were erroneous, will correct them in the only manner he can by setting aside the verdict and granting a new trial, and thus save to the parties the expense of a writ of error."[2]

[1] See State v. Phares, 24 W. Va. 657 (1884); Danks v. Rodeheaver, 26 W. Va. 274 (1885); Hinton Milling Co. v. New River Milling Co., 78 W. Va. 314, 88 S. E. 1079 (1916).

[2] State v. Phares, *supra* n. 1.