"The Court: Well, I want to try it right, and I suppose you do,
Is there anything to authorize that inference to be drawn?"

". Mr. Dorsey: Why, sure, why the fact that you went out
and got general practitioners, that know nothing about the analysis
of the stomach, know nothing about pathology".

"The Court, Go on, then"

"Mr. Dorsey: I thought so."

". Mr. Arnold: Does Your Honor hold that is proper,'I thought
so?'"

"The Court: I hold that he can draw any inference legitimately
from the testimony and argue it, I don't know whether or not
there is anything to indicate that any of these physicians was
the physicians of the family".

"Mr. Rosser, Let me make the suggestion, Your Honor ought to
know that before you let him testify it."

"The Court: He says he don't know it, he's merely arguing it
from an inference he has drawn."

Mr. Dorsey (resuming): "I can't see any other reason in God's
world for going out and getting these practitioners, who have
never had any special training on stomach analysis, and who have
not had any training with the analysis of tissues, like a pathol-
ogist has had,except upon that theory."

Movant shows that the Court erred in not rebuking the Solicitor
General for making such improper argument which was not authorized
by the evidence and in not stating to the jury that there was not
a particle of evidence.to the effect that any of the physicians
were family physicians of any of the jurors, or that any of the
physicians were put upon the stand for the effect it might have
upon them for such reason; and the Court erred in allowing the
Solicitor General to proceed with such improper, unwarranted
and highly prejudicial argument, and erred in allowing the
Solicitor General to comment, as the foregoing colloquy shows,
upon the well merited interruptions by defendant's counsel,
for such erroneous actions, and failures to act by the Court,
and for such illegal, unfounded and prejudicial argument, the
defendant says that a new trial should be granted.

102. Movant further says that a new trial should be granted

169.