

TWO-DAY LESSON PLAN:

Abortion on Trial

Summary

In 1975, two years after *Roe v. Wade*, an all-white and mostly Catholic jury convicted Dr. Kenneth Edelin, an African American physician, of manslaughter for performing a legal second trimester abortion. His trial transformed the anti-abortion movement. In this two-day lesson, students listen to parts of “Abortion on Trial” and read and analyze a number of newspaper articles that covered Edelin’s court case.

Students will be able to answer the following questions by the end of the second day:

1. WHAT COMPETING ATTITUDES OVER ABORTION RIGHTS EMERGED IN THE 1970S?
2. HOW DID BOSTON CITY HOSPITAL AND THE COURTS IN MASSACHUSETTS RESTRICT AND/OR EXPAND ABORTION ACCESS IN THE YEARS AFTER THE *ROE V. WADE* (1973) SUPREME COURT DECISION?
3. HOW DID THE ACTIVISM OF INDIVIDUALS LIKE DR. KENNETH EDELIN AND THOMAS CONNELLY SHAPE ATTITUDES OVER ISSUES OF GENDER, SEXUALITY, RACE, AND RELIGION IN THE 1970S?

Learning Objectives

Over the course of two days, students will work on their historical and critical thinking skills. This lesson plan specifically focuses on building the following skills:

SOURCING

By examining newspaper articles, students will think about the various perspectives in and the purposes of documents. Instead of asking whether Edelin, prosecutors, and/or defense attorneys were “biased,” this lesson plan challenges students to think about the portrayal of controversial issues in mainstream news sources.

CLOSE READING

Through the examination of word choice, students will focus on how particular language indicates an author’s perspective. By paying attention to the language describing Alice Roe’s fetus, for instance, students will understand competing legal arguments over abortion. Suggestions for assessment (see page 6)

can also help students comprehend how these arguments have stayed the same and/or changed over the past fifty years.

CONTEXTUALIZATION

Through engagement with “Abortion on Trial” and relating that background information to the lesson’s primary sources, students will understand the circumstances of Edelin’s trial. Students, for example, should comprehend how courts became essential in the fight over abortion as well as how racial dynamics played a role in Edelin’s court case.

CORROBORATION

By comparing and contrasting the trial’s opening arguments, students will understand how the fight over abortion rights was framed after *Roe v. Wade* (1973).



DAY ONE: THE TRIAL BEGINS

Intro

The first day of the lesson provides the necessary context to understand why Edelin faced a trial for manslaughter even though *Roe v. Wade* (1973) guaranteed his patient's right to an abortion. The first half of "Abortion on Trial" offers the necessary background information needed to engage with the lesson's primary sources.

Procedures

1. Introduce students to the **SEXING HISTORY PODCAST** and inform the class that they're going to be learning about the fight over abortion rights.

Explain that this remains a controversial topic and that students might have passionate reactions to whether abortion should be legal or not. The goal of the lesson, however, is to explore the historical reasons for the legalization of abortion in the 1960s and 1970s and to think historically about the Edelin trial that the class will learn about in the lesson.

2. Hand out the **SEXING HISTORY TRANSCRIPT** and/or show the transcript on a Smart Board or projection screen. Have students follow along as they listen to "Abortion on Trial." If projecting the transcript, scroll through the text so that students can follow along.

3. Start "Abortion on Trial" at 0:00 on SoundCloud or 3:35 on iTunes. Play until 13:52 on SoundCloud or 17:26 on iTunes. Stop the podcast whenever necessary to answer pressing questions and/or to offer additional historical context.

4. Spend 7-10 minutes discussing the background information in "Abortion on Trial." Sample questions, which you might write down either on the whiteboard/blackboard or provide via a hand-out, include but are not limited to:

- *How did Alice Roe's personal circumstances influence her decision to seek an abortion?*
- *What role did Dr. Kenneth Edelin play in Alice Roe's abortion? And why was Edelin's hospital a center for abortion in the greater-Boston area?*
- *What did Roe v. Wade (1973) determine on the issue of abortion rights? Were there some limitations established by the U.S. Supreme Court? Or, did the ruling give women the right to terminate a pregnancy whenever they wanted?*
- *How did anti-abortion activists like Thomas Connelly, a white Catholic man from Boston, start building a case against Edelin and other abortion providers? What were the arguments he put forward?*

Sources

Sexing History "Abortion on Trial"
0:00 - 13:52 ON SOUNDCLOUD
3:35 - 17:26 ON ITUNES

Sexing History "Abortion on Trial"
Transcript

SOURCE #1: "Defense excerpts," *Boston Globe*, January 11, 1975

SOURCE #2: "Prosecution excerpts," *Boston Globe*, January 11, 1975



DAY ONE: THE TRIAL BEGINS

Procedures cont.

5. Transition to the **PRIMARY SOURCE ACTIVITY**, which covers the opening statements in Edelin’s manslaughter case. Either have students work in pairs or split the class in two. Let the students know that they’ll be responsible for reading **SOURCE #1**: “Defense excerpts” or **SOURCE #2**: “Prosecution excerpts.” As they read, they should start to think of preliminary answers to: *How did Boston City Hospital and the courts in Massachusetts restrict and/or expand abortion access in the years after the Roe v. Wade (1973) Supreme Court decision?*

Encourage students to predict what they think was decided in Edelin’s court case.

6. Have students compare and contrast their documents. If working in pairs, students should point out to each other the different perspectives of the prosecutor and the defense attorney. You might also consider a modified jigsaw method, where each group can read **SOURCE #1** or **SOURCE #2**. Then, after

they’re done, create new groupings so that they can share what they read and work on the historical thinking skill of corroboration. No matter the teaching method chosen, students can discuss the following questions:

- *What language did the prosecutor and the defense attorney use to discuss the status of the fetus? Why did this matter to their legal arguments?*
- *Whose voices (or experiences) are largely missing from these excerpts? Would the inclusion of these voices or experiences alter the court case in significant ways?*

7. Conclude the lesson by checking for understanding (i.e., whole group discussion, listening to pairs talk about their respective documents and guiding the discussion when necessary). Tell students that they’ll learn how Edelin’s identity as an African American man emerged as a key issue in the court case.

END OF DAY 1

Extension Activity or Homework

Students can read **SOURCE #4**: Bob Sales, “Edelin Displays Little Emotion as Opening Statements Made,” *Boston Globe*, January 11, 1975.

Students should think about perspective while they read the article. This could include focusing on the article’s title, which strongly hints that Edelin should’ve been more emotional as the trial started, as well as on the various ways the prosecutor tried to paint Edelin as cold-hearted and emotionless. What do these things tell us about the issue of abortion, not to mention the tactics used by prosecutors in court cases?



DAY TWO: RACE AND EDELIN'S LEGAL BATTLE

Intro

The second day of the lesson focuses on Edelin's identity as an African American physician and the role this played in his court case.

Procedures

1. Cue "Abortion on Trial" to 15:55 on SoundCloud or 19:30 on iTunes, have students take out the **PODCAST TRANSCRIPT**, and/or project the transcript on a Smart Board, whiteboard, etc. Remind students that they'll be examining how Dr. Kenneth Edelin, an African American physician in Boston, was brought up on manslaughter charges for performing a legal second trimester abortion on Alice Roe.

2. Play "Abortion on Trial" to 29:22 on SoundCloud or 32:57 on iTunes.

3. Spend 7-10 minutes discussing the events covered in the **SEXING HISTORY PODCAST**. Sample questions, which you could write on the board, include but are not limited to the following:

- *What were some of the "grey areas" that Roe v. Wade seemed to create on the issue of abortion and the law?*
- *Who testified against Edelin? What did these individuals argue in order to make their point?*

• *How did the defense counter pro-life experts?*

• *What did the judge instruct the jury to consider when deciding the issues in Edelin's case?*

• *Did Edelin win his initial court case? What evidence did the jury seem to find most convincing as they deliberated?*

4. Transition to the **PRIMARY SOURCE ACTIVITY**. Every student will read **SOURCE #3: "Edelin Would Continue Abortions,"** *The Burlington Free Press*, February 18, 1975. Students can read individually, in pairs, or in small groups, depending on students' individual needs and/or teacher preference. One suggestion is to pair strong readers with students who may need some assistance.

5. Before reading the newspaper article, remind students to think about perspective, particularly on issues not covered in "Abortion on Trial." One thing you may want to emphasize is that the U.S. Constitution's Bill of Rights

Sources

Sexing History "Abortion on Trial"
15:55 - 28:22 ON SOUND CLOUD
19:30 - 32:57 ON ITUNES

Sexing History "Abortion on Trial"
29:22 - 33:47 ON SOUND CLOUD
31:58 - 37:22 ON ITUNES

Sexing History "Abortion on Trial"
Transcript

SOURCE #3: Associated Press, "Edelin Would Continue Abortions," *The Burlington Free Press* (Burlington, VT), February 18, 1975



DAY TWO: RACE AND EDELIN'S LEGAL BATTLE

Procedures cont.

guarantees everyone the right to an impartial jury. (See the Sixth Amendment.) With that in mind, you could post the following questions on the board, letting students know that they should read the newspaper article with these in mind:

- *Did Edelin have an impartial jury determine his case? What evidence supports your assertion?*

[You may choose to introduce students to the text of the Sixth Amendment, which reads in part: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed..."]

- *What role did race and racism play in the trial?*
- *Was Edelin an activist? Why or why not?*

6. Check for understanding while students read **SOURCE #3: "Edelin Would Continue Abortions"** and as they discuss the questions listed earlier.

7. Play "Abortion on Trial" from 28:22 – 33:47 on SoundCloud or 31:58 – 37:22 on iTunes to provide historical information about what happened after Edelin's trial.

8. Conclude class by telling students that abortion remains a hotly debated topic in the United States.

If you have time, you might ask students if the podcast and the primary sources confirmed or changed their opinion on the issue of abortion. Before doing this, however, remind students to be respectful of classmates who have opposing views from their own.

END OF DAY 2

Extension Activity or Homework

Students can examine pro-life signs from a January 1976 political rally in Boston.

The four sources included in this lesson plan highlight some of the tactics that pro-life activists began employing in the 1970s. You should encourage students to connect the messaging on these signs to themes in "Abortion on Trial." This might include highlighting how these activists were trying to appeal to human emotion in order to make their political point.



ADDITIONAL NOTES

Suggestions for Assessment

CREATIVE

Ask students to design pamphlets expressing the pro- or anti-abortion arguments as they existed in the early-to-mid 1970s. In their pamphlets, students should reference information from “Abortion on Trial” and the primary sources they engaged with.

WRITING-FOCUSED

For homework (or if you want to extend the lesson to a third day), have students write (at least) one paragraph answering the lesson plan’s three essential questions. Assist students as they incorporate primary sources into their responses.

RESEARCH-BASED

Ask students to conduct internet/newspaper research to learn about abortion access since *Roe v. Wade*. Prominent court cases include but are not limited to: *Planned Parenthood of Southeastern Pennsylvania v. Casey* (1992), *Gonzales v. Carhart* (2007), *Whole Woman’s Health v. Hellerstedt* (2016), and *June Medical Services LLC v. Russo* (2020). After conducting this research, students could write a letter to their elected representatives to advocate for expanding or restricting abortion rights. They should highlight important court cases and/or recently enacted laws in their letters.

Suggested Modification for a One-Day Lesson

There are several ways to modify this two-day lesson plan if you can only devote 45- or 60-minutes to Edelin’s court case. One option is to listen to “Abortion on Trial” from 0:00 - 11:49 on SoundCloud or 3:35 - 15:24 on iTunes, have students pair up to work through SOURCE #1 and SOURCE #2, and close with “Abortion on Trial” from 28:22 - 33:47 on SoundCloud or 31:58 - 37:25 on iTunes.



'We will demonstrate, we suggest, to your satisfaction, that no person ever existed and no person was ever killed.'

—DEFENSE ATTY. HOMANS

'There will be evidence that at this particular male child was from the mother, that the male child have lived outside the mother.'

ASST. DIST. ATTY. F

Defense excerpts

Following are excerpts of defense attorney William P. Homans Jr.'s opening remarks to the jury.

You will hear that Kenneth Edelin, a well-thought-of physician, was at the time of the operation in question, October 3 of 1973, chief resident in the department of obstetrics and gynecology at the Boston City Hospital, and that as such, he and other members of the staff from time to time, in accordance with the policies of the hospital, performed abortions.

You will hear from physicians who are experienced and well-qualified and highly thought of in their professions, that the process of hysterotomy is a recognized form of abortion, done in a significant percentage of abortion cases under certain circumstances.

You will hear other testimony, both from the Commonwealth's witnesses and from the defendant, Dr. Edelin, concerning the condition of the fetus when it was removed from the body of the mother and you will hear evidence that this fetus never drew a single breath outside the body of the mother.

Most important, perhaps, you will hear evidence as to the meaning of words.

We will show, we suggest, to your satisfaction, that although the indictment refers to the killing of a

"baby boy" that in fact no "baby boy" ever existed, and certainly no "baby boy" was ever killed.

You heard in the indictment and you heard my brother refer to a person.

We will demonstrate, we suggest, to your satisfaction that no person ever existed and no person was ever killed.

Whether in fact a "baby boy" ever existed or in fact whether a person ever existed.

We suggest that we will show to your satisfaction that this never took place,

My brother, in outlining the evidence to you, read to you a portion of the medical examiner's report, which he will introduce in evidence, and you will recall that he read that the body of the male child is that of a well-developed, well-nourished black male fetus.

We have no disagreement with the language of the autopsy as it was read, except that you should be aware that the evidence that you will hear from the medical examiner as to the report he made never at any time used the words "male child," in any place.

I am describing now the evidence that you will hear from one of the Commonwealth's witnesses and ask you to consider it at the time it becomes appropriate, the reference or lack of reference to the male child.

Well, we will ask you — and we will offer evidence as to the meaning of words such as "anoxia" and "asphyxia."

We will offer evidence as to the meaning of words such as "suffocate" and their application or non-application to what was involved here.

You will hear also evidence that while the fetus remains in the body of the mother, the sole means it has to discharge waste and the carbon dioxide, which all of us breathe out when we breathe out, is through the artery leading from the fetus back to the placenta. So just as we breathe oxygen in and breathe carbon dioxide out, the fetus does not breathe in any way. The fetus takes in oxygen and discharges, changes as you will hear evidence, discharges carbon dioxide through the umbilical cord to the placenta.

Why do we make this long explanation? Because the Commonwealth has used — and it has the right to — the word "suffocate."

I ask you to consider the word "suffocate" as you understand it and whether that has anything to do with the process which the fetus is involved in taking in oxygen and discharging carbon dioxide through the cord and the manner in which it is described.

Prosec

Following are excerpts of the Commonwealth's opening remarks to the jury.

The Clerk read to you the indictment which charges that Kenneth Edelin, a physician, on October 3 of 1973, at the Boston City Hospital,

There will be evidence in the latter part of 1973 a Dr. Edelin had visited in the Boston City Hospital.

There was an issue at that time for a death the second year of the Boston City Hospital, Dr. Edelin's name is known.

We will ask you, based on the facts and evidence and make a statement that the way to hear evidence is to hear evidence.

In stating, the Commonwealth will introduce evidence with what we hope for the fact the Commonwealth has used the word "suffocate."

And when I say "suffocate" will be evidence that you will understand it and whether that has anything to do with the process which the fetus is involved in taking in oxygen and discharging carbon dioxide through the cord and the manner in which it is described.

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it no person ever existed and
ever killed.'

—DEFENSE ATTY. HOMANS

'There will be evidence that at the time
this particular male child was detached
from the mother, that the male child would
have lived outside the mother.'

ASST. DIST. ATTY. FLANAGAN



Prosecution excerpts

Following are excerpts of assistant district attorney Newman A. Flanagan's opening remarks to the jury.

The Clerk read to you an indictment essentially charging this defendant, Kenneth Edelin, with manslaughter of a male child that took place on October 3d of 1973.

There will be evidence that back in the latter part of September of 1973 a Dr. Holtrop had a patient admitted to the Boston City Hospital Gyn.-Obs. Dept.

There was an examination made at that time by a doctor who was in his second year of residency at the Boston City Hospital. That particular doctor's name was Dr. Enrico Giminez.

He will tell you that he measured four finger widths above the umbilicus and made a clinical determination that the woman was twenty-four weeks pregnant.

Dr. Holtrop, the next day, the record will indicate that he concurred with what was reported, except for the fact that the woman was twenty or twenty-one weeks pregnant.

And when I say "woman," there will be evidence that this particular girl was approximately 17 years of age; that on the second of October they tried twice to perform a saline fusion, and there will be testimony as to what a saline fusion is—that is a process by which they endeavor to kill the fetus while it is a part of

the mother and in the mother; that they were unsuccessful.

There will be evidence that at that time the defendant in this case, Dr. Kenneth Edelin, performed a hysterotomy on this female patient.

There will be evidence that at the time of this particular hysterotomy, Dr. Enrico Giminez was in the operating room, but not taking part in the operation.

There will be evidence that he does not do abortions.

Hysterotomy will be described to you as a miniature cesarean, and for us people in the general public, that is an opening up of the abdomen. That when this particular defendant opened up the female patient Dr. Giminez was standing watching, that the defendant stuck his hand in, and if my memory serves me right, it was his right hand, after he made the opening which is major surgery — the opening of the womb of the woman — and he detached the placenta from the uterine wall.

The placenta in this particular case was internally located; that when he detached the placenta from the uterine wall, there will be evidence that at that time the woman commences to bleed profusely and that once that placenta is detached from the uterine wall, the child, in this case a male child, is no longer dependent upon the mother, or that at that time the pregnancy has been terminated; that once the placenta was detached from the mother, the defendant, Kenneth Edelin, stood in

the operating room with his hand in the mother, and watched the clock.

There will be testimony that he stood there with his hand in the mother and watched the clock for a period of at least three minutes.

There will be testimony that when they commenced this particular hysterotomy, the baby was alive. There will be testimony that when the placenta was detached, the child was alive. There will be testimony that after that period of time, and the testimony is that he was looking at the clock for that period of time, he then removed the male child from the mother's womb by hand.

Dr. George W. Curtis as the (Suffolk County) medical examiner will tell you that it was not until Feb. 7 of 1974 that he made an autopsy on the deceased male child.

He will tell you that at that time he could not determine the cause of death. He will tell you that the cause of death was death by anoxia. And for the lay person or the general public person anoxia is death by suffocation. There will be evidence that at the time that this particular male child was detached from the mother and no longer dependent on the mother, that the male child would have lived outside of the mother. And there is nobody on earth that can testify as to how long outside of the mother that baby would have lived.

Edelin Would Continue Abortions

BOSTON (AP) — Dr. Kenneth C. Edelin, the Boston obstetrician convicted of manslaughter during a legal abortion, said Monday he will continue to perform abortions if permitted to do so.

"I have not done anything which was illegal," Edelin said. "I will continue to do abortions. They are a woman's right and it is better if they are done in a hospital setting by someone who is trained."

One of Edelin's attorneys, Frank Susman of St. Louis, said meanwhile the doctor's appeal to the Massachusetts Supreme Court will argue that evidence did not support the verdict.

Susman said racism and the alleged use of racial slurs by jurors also will be part of the appeal. He said the fact that Edelin is black may have been a major factor in the verdict by the all-white jury.

An estimated 2,000 to 3,000 Edelin supporters, carrying placards and candles, rallied on the Boston Common Monday evening. The crowd, which included pro-abortion groups, then peacefully marched through the downtown area singing and chanting.

Edelin was convicted Saturday in Suffolk Superior Court after a six-week trial. He was accused of killing a 20-to-24-week-old fetus during a legal

abortion at a Boston hospital.

Susman said testimony showed Edelin was acting within guidelines set by the U.S. Supreme Court two years ago when it permitted abortion in the first six months of pregnancy.

An alternate juror, Michael Ciano, 32, of East Boston, said in interviews that racial slurs, such as "the nigger is guilty as sin," were made throughout the trial by members of the jury in the privacy of the jury room.

John G. Kelly, who said he was the lone holdout juror against convicting Edelin at the beginning of deliberations, said there was "some small amount" of racial epithets heard among the jurors.

"But not in any way connected with Dr. Edelin or any of the issues of the trial," Kelly said. "I cannot answer for them unconsciously, but consciously I do not believe that race played a part."

Dr. Bancroft C. Wheeler, the registration board chairman,

said it is too early to say when the board will consider the Edelin case. "The board may wait until the appeal is carried out," he said.

Francis Guiney, executive director of the city Health and Hospitals Department which runs the hospital in which the abortion was performed, said trustees would review the Edelin case "in the immediate future" to decide the doctor's position at the hospital.

Physicians and other leaders in the medical field argued, meanwhile, the verdict may have been guided by emotion and said it should not scare doctors away from performing abortions in the future.



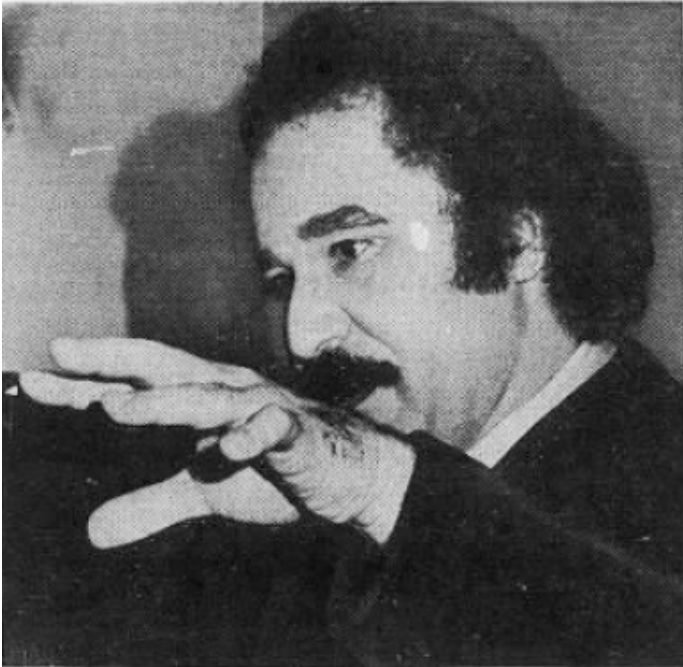
Dr. Edelin

5 The Burlington Free Press, Tuesday, Feb. 18, 1975

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DR. KENNETH C. EDELIN (Globe photos by Paul Connell)

Edelin displays little emotion as opening statements made

By Bob Sales
Globe Staff

The legal language and the low-key delivery did not blunt the effect of the words.

"Kenneth Edelin on the third day of October in the year of Our Lord one thousand nine hundred and seventy-three did assault and beat a certain person . . ."

The clerk, his voice soft but clear, a monotone that all members of his profession seem to perfect, was reading the indictment that alleges Dr. Edelin is a killer.

" . . . to wit, a male child, described to the jurors as a baby boy . . ."

Edelin pursed his lips and grimaced. He clasped his hands and covered his mouth. He knew what was coming and he doesn't like to hear it.

" . . . by such assault and battery did kill the said person."

Edelin stared straight ahead, past the clerk who was 10 feet away, past the judge who was behind the clerk. The jury that will decide Edelin's fate was to his right. Edelin did not look in their direction.

"I had the same reaction you would have if someone was telling lies about you," Edelin said after yesterday's session in the Suffolk County Superior Court. "I was angry."

Edelin, chief resident in obstetrics and gynecology at Boston City Hospital, veiled his anger throughout the day.

He was impassive, staring in the direction of the jury, as he listened to assistant district attorney Newman Flanagan say another doctor would testify that he recorded a fetal heartbeat.

He folded his hands and placed them in front of his lips as Flanagan said that three attempts to induce an abortion by injecting saline solution into the pregnant woman were unsuccessful.

He placed his left index finger behind his ear as Flanagan said the pregnancy was "terminated" once the placenta was detached from the uterine wall.

"He (Edelin) watched the clock," Flanagan said, pausing for effect, "watched the clock for a period of at least three minutes . . ." while the fetus remained in the womb.

Edelin's head pivoted toward Flanagan, who had his back to the defendant and was facing the jury.

"When he commenced the baby was alive," Flanagan said. "When the placenta was detached the child was alive . . ."

Edelin sighed.

"There's nobody on this earth that can testify how long outside the mother that baby would have lived," Flanagan said. "To put it another way, there's no way to say how long you may live . . ."

Defense attorney William Homan's objection to the remark was overruled. His client leaned back in his chair, staring straight ahead, hands clasped behind his head.

Later, Flanagan, a bouncy, good-natured man whose face always appears to be on the verge of breaking out in a whimsical grin, described his feelings about Edelin's plight with a metaphor: "If you want to play in the kitchen and you get burned you should pay the price."

"Obviously," Flanagan said in his office, "I don't despise or hate individuals. That's not my nature. But for the purposes of this trial, I'll call it the way I see it."

"Sympathy has no place in a court of law during a trial on the merits. Maybe there's a place for it in the disposition or the sentencing of a person who's found guilty."

During a trial, Flanagan always avoids all contact with the defendant. He has followed this procedure scrupulously during this case.

"He's not the average type of killer that you have," said Flanagan, who has tried more than 40 capital cases during his career as a prosecutor.

"However," Flanagan added, and he laughed nervously, "killers can come in different cloth."

Flanagan made the remarks outside the courtroom, after the jury had been sequestered.

As he left the courtroom, Edelin, wearing a finely tailored three-piece herringbone suit and a print tie, said: "It's all false. It's not true."

In his opening statement, Flanagan used the word "baby" several times, usually following it quickly with "fetus" and then substituting the words "male child." Flanagan did not object at that point.

During the afternoon session, the first prosecution witness, Dr. Michael Jefferson, a general surgeon on the staff of University Hospital, took the stand.

Assistant district attorney Joseph J. Mulligan drew Dr. Jefferson out as an expert witness, which entails an MD from Harvard Medical School, postgraduate training in surgery at Massachusetts General Hospital, certification by the American Board of Surgery and the holding rank of assistant clinical professor of surgery at Boston University School of Medicine.

Mulligan then proceeded to question him as an expert witness, asking him to describe the process of fertilization, the growth of the fertilized human egg into a fetus, and various abortion procedures. Dr. Jefferson, who is active in the obstetrical Right to Life movement, answered calmly and authoritatively and importantly used the words "baby" and "young man" in his testimony, and Flanagan objected.

After cross-examining Dr. Jefferson, Flanagan objected that she was called as an expert witness because she is not an obstetrician, gynecologist or embryologist and he had comparatively little experience in any of these fields.

The objection was overruled, and Mulligan continued to question Dr. Jefferson about medical terminology and procedures.

Flanagan was asked outside the courtroom why he had chosen Dr. Jefferson, a surgeon not an obstetrician, to lead off in testimony as an expert witness.

"I think that's probably a professional expert," he replied. "I think the jury will listen to what she says. She makes an impressive witness. She's brief, that's important. There's less or much above publicity in the T.V. 20 and Harvard medical community. I thought I would be foolish to get a Harvard Medical School graduate on the stand."

Asked if he deliberately chose a witness known to be his first witness, Flanagan said "It would not hurt."







