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Law and Human Behavior, Vol. 14, No. 6. (Dec., 1990), pp. 537-550.

Stable URL:
http://links.jstor.org/sici?sici=0147-7307%28199012%2914%3A6%3C537%3ATDCEOT%3E2.0.CO%3B2-T

Law and Human Behavior is currently published by Springer.

Law and Human Behavior, Vol. 14, No. 6, 1990

The Dynamite Charge

Effects on the Perceptions and Deliberation Behavior of Mock Jurors*

Saul M. Kassin,† Vicki L. Smith,‡ and William F. Tulloch†

When juries report they are deadlocked, judges may deliver a supplemental instruction known as the *dynamite charge* which urges jurors to reexamine their views in an effort to reach a unanimous verdict. To examine the impact of this instruction, 72 mock jurors were led to believe they were participating in a controlled deliberation by voting and passing notes. Subjects were randomly assigned to the majority or minority faction of a 3-to-1 split. After the third round of deliberation, half the subjects received the dynamite charge, half did not. Results provided support for the hypothesis that the dynamite charge causes jurors in the minority to feel coerced and to change their votes and encourages those in the majority to exert increasing amounts of social pressure. These findings are discussed for their practical implications, limitations, and directions for further research.

Recently, one of us received a phone call from a criminal lawyer whose client had just been convicted on six counts of tax fraud. After 2 days of testimony, arguments, and instructions, the 12-person jury spent 3 days deliberating. On the second day of deliberation, the jury informed the judge in a note that it was at an impasse on some of the counts. The jurors reconvened, but then on the third day said they were hopelessly deadlocked on all counts, with no verdict in sight. In response to the jury's second note, the judge issued a special instruction, one that

* We would like to thank Rebecca Buchanan and Craig Gangi for their role as experimenters in a pilot study. Reprint requests should be addressed to Saul Kassin, Department of Psychology, Bronfman Science Center, Williams College, Williamstown, Massachusetts 01267.

† Williams College.

‡ Northwestern University.

0147-7307/90/1200-0537$06.00/0

is designed to prod hung juries toward a verdict. Twenty minutes later, as if a spell had been cast, the jury reached unanimous guilty verdicts on all counts.

The instruction that preceded the jury's decision was modeled after the Allen charge, first used in Massachusetts (*Commonwealth v. Tuey,* 1851) and approved by the U.S. Supreme Court in *Allen v. U.S.* (1896). Used to blast deadlocked juries into a verdict, this supplemental instruction is so effective that it is commonly known as the *dynamite charge.*[1] What specifically is the dynamite charge, how does it work, and why is it controversial? For judges confronted with the prospect of a hung jury, this instruction can be used to avert a mistrial by imploring jurors to reexamine their own views and to seriously consider each other's arguments with a disposition to be convinced. In addition, it may state that "if the much larger number were for conviction, a dissenting juror should consider whether his doubt was a reasonable one which made no impression upon the minds of so many men, equally honest, equally intelligent with himself" (*Allen v. U.S.,* 1896, p. 501).

Trial anecdotes suggest that the dynamite charge works in both criminal and civil cases. Those who believe the effect is desirable argue that it encourages all jurors to reevaluate their positions, that, after all, those who are in the voting minority are typically obstinate holdouts who should be "properly warned against stubbornness and self-assertion" (*People v. Randall,* 1961, p. 425). Opponents, however, fear that legitimate dissenters, "struggling to maintain their position in a protracted debate in the jury room, are led into the courtroom and, before their peers, specifically requested by the judge to reconsider their position . . . That the charge places the sanction of the court behind the views of the majority, whatever they may be" (*People v. Gainer,* 1977, p. 850).

The dynamite charge has its share of proponents, and yet it has also drawn much criticism. Several years ago, the American Bar Association (1968) opposed this instruction on the grounds that it coerces the deadlocked jury into reaching a verdict and places inordinate amounts of pressure on those in the voting minority. Indeed, the dynamite charge has been prohibited or restricted in certain state and federal courts (Marcus, 1978; Notes and Comments, 1968; Jensen, 1989). In the recent case of *Lowenfield v. Phelps* (1988), however, the U.S. Supreme Court ruled that the dynamite charge is not necessarily coercive and reaffirmed its use on a routine basis.

Although American courts have argued about the dynamite charge for many years, and although the Supreme Court has now upheld its use, no empirical studies have ever addressed the questions raised concerning its impact on the jury's decision-making process. As in other small groups, juries can reach a consensus through two processes—informational influence, in which individuals conform because they are genuinely persuaded by discussions of evidence, and normative influence, in which individuals comply in public in response to a group's social pressure (Asch, 1956; Deutsch & Gerard, 1955). The importance of both

[1] It has also been called the *shotgun instruction,* the *third degree instruction,* the *nitroglycerin charge,* the *hammer instruction,* and the *hanging instruction* (Marcus, 1968).

processes has been documented in recent conformity research (e.g., Campbell & Fairey, 1989) and in jury research as well (Kaplan & Miller, 1983; Stasser, Kerr, & Bray, 1982). Thus, as Kalven and Zeisel (1966) wrote, jury deliberation "is an interesting combination of rational persuasion, sheer social pressure, and the psychological mechanism by which individual perceptions undergo change when exposed to group discussion" (p. 489).

In the ideal, jury verdicts should follow from a vigorous exchange of information and a minimum of normative pressure, thus reflecting the true opinions of all individual members (Kassin & Wrightsman, 1988). Unfortunately, this ideal is not always realized, as the delicate balance between competing forces can be altered by various aspects of a jury's task. Research has shown, for example, that normative influences are heightened in groups that decide on questions of values rather than facts (Kaplan & Miller, 1987), take frequent public ballots (Hawkins, 1962), and deliberate under a nonunanimous decision rule (Hastie, Penrod, & Pennington, 1983). The present study was designed to test the hypothesis that the dynamite charge also increases normative influences, real or imagined, on the jury.

METHOD

Subjects and Design

Seventy-five male and female undergraduates participated in exchange for either money or extra credit in an introductory psychology course. Subjects were randomly assigned to one of four cells produced by a 2 (majority, minority) × 2 (dynamite, control) factorial design. Three subjects were eliminated and replaced because they were suspicious of our manipulation (i.e., they surmised that they were participating individually, not as part of a group). Thus, our final sample consisted of 72 subjects (n = 18 per cell).

Stimulus Trial

All subjects read a four-page summary of a criminal case in which the defendant was charged with attempted tax evasion for failing to file federal income tax returns for 3 years. According to the prosecution, the defendant, a pipefitter, had willfully intended to defraud the IRS. The government argued that it was unreasonable, if not ludicrous, for the defendant to believe that he did not have to pay such taxes and that he deliberately closed his eyes to the law in order to avoid payment. To support the charge, evidence was introduced that showed that the defendant had previously, and under the same circumstances, paid his taxes, and that immediately preceding the years in question, he had refused to file his returns on Fifth Amendment grounds.

The defendant admitted that he had not paid taxes for the years in question. He claimed, however, that he truly believed his wages were not derived from a taxable activity. The defendant based his belief on an analysis of the Internal

Revenue Code, on his reading of numerous articles, and on discussions with others. To support the defendant's claim, evidence was introduced which showed that he wrote many letters of inquiry to the IRS and other government officials, but was never told that his interpretation of the law was in error. The trial summary concluded with the judge's instructions. In pretesting with a group of 32 students, the case elicited a relatively balanced (44%) rate of conviction.

Procedure

When they signed up for the experiment, subjects were led to believe that they would participate with others on a mock jury. Upon their arrival, subjects were greeted by a male experimenter, taken to a cubicle that contained a chair, table, index cards, and a pen, and asked to wait for three other subjects to arrive. A few moments later, the experimenter returned with instructions. At this point, subjects were told that we were conducting a controlled study of how juries deliberate. To examine the decision-making process without the bias inherent in face-to-face interaction, jurors were led to believe they would communicate from different rooms by passing notes. In fact, all subjects participated alone.

The "deliberations" were structured within discrete rounds. After reading the case summary, subjects wrote down their verdict (guilty or not guilty) and a 1–2 sentence explanation. After completing their note, subjects buzzed the experimenter over an intercom. The experimenter then collected the note. Supposedly, he also collected the other subjects' notes, photocopied them, and distributed the copies to each subject. After reading the other notes, subjects began a second round of deliberation—voting, writing an explanation, signaling the experimenter, and receiving written feedback from their three fictitious peers. Subjects were instructed that this procedure would be reiterated until the group reached a unanimous decision. In fact, unless subjects changed their votes, the session was terminated after seven rounds. At that point, subjects filled out a questionnaire concerning the experience. They were then fully debriefed, paid with money or course credit, and thanked for their participation.

Majority–Minority Manipulation

To pretest our case summary, we had 32 subjects write down a verdict and explanation. From the pool of explanations that were generated, six sets of notes—three guilty, three not guilty—were written and photocopied. Each set consisted of six notes written in the same handwriting.[2] All subjects received three notes at a time. Those assigned to the *majority* condition received two randomly selected sets of notes that agreed with their guilty or not guilty verdicts, and one set that did not. In contrast, subjects assigned to the *minority* condition received three randomly selected sets of notes that all disagreed with their verdicts. By the end of the first round, then, subjects found themselves in either the

[2] In a pilot test of our procedure and manipulations, a handful of subjects expressed suspicion because the notes they received were cold, not "hot off the xerox machine." To solve the problem, the experimenter warmed the notes on a space heater before dispersing them to subjects.

majority or minority faction of a 3–1 split. Unless subjects changed their vote during subsequent rounds (as one might expect, several members of the minority capitulated; in these instances, the session was terminated and questionnaires administered), these divisions persisted.

Instruction Manipulation

After the third round of voting, subjects in the *no-instruction control* condition were simply reminded that because their verdicts had to be unanimous, they would continue to "deliberate." This procedure resembles what often happens when jurors are deadlocked and the judge directs them to return for further discussion. After the third round of the *dynamite* condition, however, the experimenter read the following instruction, patterned after the *Allen* charge:

> As you know, the verdict requires a unanimous decision, which has not yet been reached. This verdict must take into account the views of each individual juror, and should not represent the mere acquiescence of an individual to his or her peers. Each of you should examine the question submitted for your consideration with candor and with a proper regard and deference to the opinions of each other. As it is your duty to decide the case if you can conscientiously do so, you should listen, with a disposition to be convinced, to each other's arguments. If most members of the jury are for conviction, a dissenting juror should consider whether his or her doubt is a reasonable one, considering that it made no impression upon the minds of so many other equally honest and intelligent jurors. If, on the other hand, the majority is for acquittal, the minority ought to ask themselves whether they might not reasonably doubt the correctness of a judgment which is not concurred in by the majority.

Dependent Measures

Three possible effects of the dynamite charge were measured. First, we were interested in whether subjects—especially those in the voting minority—were more likely to surrender their opinions after receiving this controversial instruction. Second, we were interested in how subjects perceived certain aspects of the group process, particularly the amount of pressure exerted on them to change their votes. As soon as the experimental session ended (either because the subject changed his or her vote, or because seven rounds of deliberation had elapsed), subjects filled out a two-page questionnaire.

On the questionnaire, subjects reported the group's verdict (guilty, not guilty, hung), rated the extent of their agreement with that verdict, and indicated the decision they personally support. Subjects then rated how satisfied they were with the deliberation process, how informative they found other jurors' arguments, how receptive they were to these arguments, and how receptive others were to their own arguments. Next, subjects rated how much overall pressure they were under to change their vote, how pressured they were by the judge's supplemental instruction, and how pressured they were by the other jurors. Finally, subjects were asked to reconstruct the deliberation process and rate how much total pressure they were under during each round., All ratings were made on 1–10 point scales (where 1 = *not at all,* and 10 = *very much*).

In addition to looking at subjects' votes and perceptions of the deliberation

process, we were interested in the effects of the dynamite charge on the kinds of pressure exerted in the notes written by those in the voting majority and minority. Subjects' explanations of their verdicts were thus analyzed for whether they revealed the use of informational and normative influence strategies. For each note, two independent raters—blind to the subject's condition—judged whether or not the note (a) offered a reasoned argument, citing facts or laws relevant to the case (e.g., "The IRS never answered him, and he tried to find out . . . too bad for them." "The defendant filed his tax returns up until 1980, and he suddenly stopped . . . There were no drastic changes in his circumstances to believe that he no longer needed to file."), and (b) contained elements of normative social pressure (e.g., "To the person who voted not guilty, it is absurd to blame the IRS. This case is so obvious." "Are you all brain dead? . . If you all want to go home soon, you'll have to vote NG.").

On judgments of informational and normative influence, the interrater agreement rates were 84% and 92%, respectively. The two judgments on each dimension were thus combined, yielding possible scores of 0 (where raters *agreed* that informational or normative influence was *absent*), 1 (where raters *disagreed* on informational or normative influence), or 2 (where both raters *agreed* that informational or normative influence was *present*). In addition, the number of words written in each note was counted as a possible measure of how much effort subjects exerted during the seven rounds of deliberation.

RESULTS

Verdicts

Overall, 18 (25%) subjects voted guilty and 54 (75%) voted not guilty during the first, predeliberation round of voting. By the final round of deliberation, 26 subjects (36.1%) had changed their initial votes. Of these, seven (26.9%) switched before the third round in which the dynamite or control charge was administered, and 19 (73.1%) switched after this critical round. Overall, subjects were more likely to switch from the voting minority than from the majority (55.6% compared to 16.7%, respectively), $\chi^2(1, n = 32) = 11.80, p < .001$, but there was no significant difference between those in the dynamite and control conditions (41.7% compared to 30.6%, respectively), $\chi^2(1, n = 32) = <1$. This pattern of results—that vote switching was more frequent in the minority than majority condition, but was unaffected by the dynamite charge—was evident within each of the four postinstruction rounds. The cumulative frequency of vote changes within each group during these rounds is depicted in Figure 1.

To test the more specific hypothesis that the dynamite instruction further empowers the voting majority relative to the minority in juries that reach a stalemate, we restricted our comparison to the more appropriate subsample of only those subjects who had not already changed their votes by the critical third round ($n = 65$). Considering only subjects who thought they were involved in a deadlocked jury (i.e., those who were still committed to their initial votes by the third

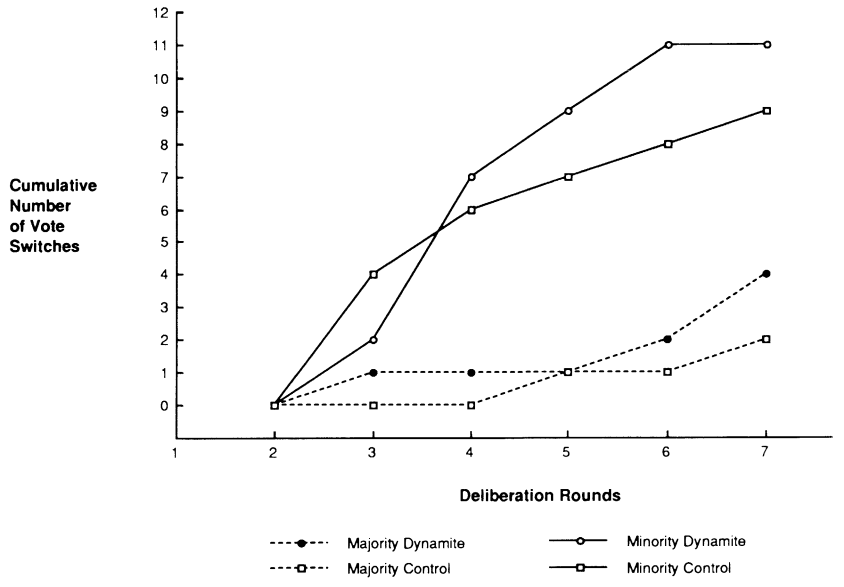

Fig. 1. Cumulative number of vote switches within the four groups produced by the 2 (Majority, Minority) × 2 (Dynamite, Control) design.

round), the impact of the dynamite charge was apparent. Among subjects who received the control instruction, the minority were not more likely to change their votes than the majority (35.7% and 11.1%, respectively), $\chi^2(1, n = 32) = 2.79, p < .20$. Among subjects who were subjected to the dynamite charge, however, those in the minority were more likely to capitulate than those in the majority (56.3% & 17.7%, $\chi^2(1, n = 33) = 5.31, p < .02$).

Perceptions of Deliberation

Analyses of questionnaire data revealed that subjects were markedly affected by their assignment to factions within the 3–1 split. Compared to those in the voting minority, subjects in the majority condition were more confident of their opinions in the case (M's = 8.56 and 7.23, respectively), $F(1,68) = 14.22, p < .001$; believed that other jurors were more receptive to their arguments (M's = 3.03 and 1.69, respectively), $F(1,68) = 12.58, p < .001$; and enjoyed the experiment more as a result (M's = 6.57 and 5.60, respectively), $F(1,68) = 4.07, p < .05$. In light of these differences, it is interesting that majority subjects did not also report greater satisfaction with the deliberation process.

To examine the effects of the dynamite charge on the amount of pressure jurors perceived to change their votes, 2 × 2 ANOVAs were conducted on subjects' ratings of the amount of pressure there was overall, from the judge's instructions, and from their peers. As expected, subjects in the voting minority reported feeling more pressured on all three measures than those in the majority (overall M's = 6.86 and 1.69, respectively, $F(1,68) = 101.51, p < .001$; from the judge M's = 2.89 and 1.88, $F(1,68) = 4.07, p < .05$; from their peers M's = 5.44

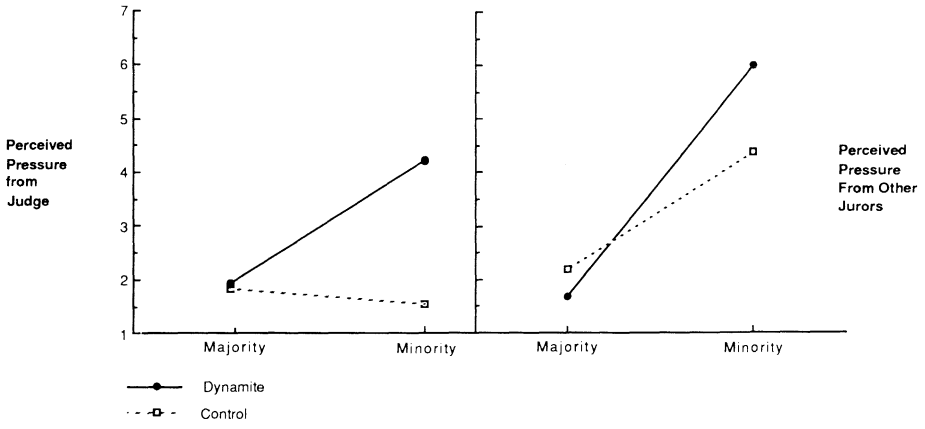

Fig. 2. Ratings (on a 1–10-point scale) of perceived pressure from the judge and other jurors.

and 1.89, $p < .001$). Turning to the judge's instruction, a significant main effect indicated that dynamited subjects felt more pressure from the judge than those in the control group (M's = 2.96 and 1.69, respectively), $F(1,68) = 7.84$, $p < .01$.[3] Of particular relevance to our hypothesis, this main effect was qualified by a significant two-way interaction, $F(1,68) = 6.64$, $p < .01$. As depicted in Figure 2, ratings of pressure from the judge were higher among dynamited minority subjects than in all other groups (all p's $< .05$ via Newman-Keuls). Remarkably, a similar, though weaker, interaction pattern also characterized subjects' perceptions of the pressure exerted from their peers, $F(1,68) = 2.59$, $p < .07$. Thus, even though the dynamite-minority group received the same deliberation notes as everyone else, there was a tendency for them to feel as if majority jurors had exerted more pressure on them to change their verdicts (see Figure 2).

Deliberation Behavior

To examine the effects of the dynamite charge on the kinds of pressure actually exerted in the majority and minority conditions, subjects' notes were analyzed for whether they revealed the use of informational and normative influence. For each note, two condition-blind raters independently judged whether it (a) offered a reasoned argument, citing facts or laws relevant to the case, and (b) contained elements of normative social pressure. By summing both raters' judgments on each dimension, subjects received two scores—one informational, the other normative—both ranging from 0 to 2. As a crude measure of how much effort subjects exerted in deliberation, we also recorded the number of words written on each note.[4]

[3] It is interesting that dynamited subjects also tended to rate themselves as less receptive to other jurors' arguments (M's = 4.78 and 5.97, respectively), $F(1,68) = 3.65$, $p < .06$.

[4] Since deliberations were terminated when subjects changed their votes, the data for rounds one through seven are based on diminishing sample sizes (n's = 72, 72, 65, 58, 54, 50, and 46). All repeated measures analyses were thus based on the 46 subjects who completed the entire series.

Informational and normative influence scores were submitted to 2 (majority, minority) × 2 (dynamite, control) × 7 (rounds 1–7) ANOVAs with repeated measures on the last factor. Interestingly, the results revealed significant main effects for deliberation rounds on both informational, $F(6,252) = 7.33$, $p < .001$, and normative influence, $F(6,252) = 6.88$, $p < .001$. As illustrated in Figure 3, the use of reasoned arguments increased from the first round to the second ($p < .05$), leveled off before it dropped sharply from the fourth round to the fifth ($p < .01$), and then dropped again from the sixth round to the seventh ($p < .01$). In contrast, the use of social pressure increased dramatically from the third round to the fourth ($p < .01$), and again from the fourth round to the fifth ($p < .05$), before subsiding from the sixth to final rounds ($p < .01$). Taken together, this pattern indicates initially high but diminishing levels of informational influence, coupled with initially low but increasing levels of normative pressure.

On informational influence, analyses also revealed a marginally significant main effect for judge's instruction, as subjects in the dynamite condition obtained somewhat lower scores than those in the control group (M's = 1.43 and 1.62, respectively), $F(1,42) = 2.85$, $p < .10$. More importantly, this effect was qualified by a significant Instruction × Rounds interaction, $F(6,252) = 2.33$, $p < .05$. As shown in Figure 4, the drop in informational influence that characterized the postinstruction half of the deliberation occurred more among dynamite than control subjects. Interestingly, this decrease was not immediate upon instruction (i.e., there was not a significant drop from the third to fourth rounds: $p > .50$), but was evident on subsequent rounds (p's $< .05$ in rounds 5, 6, and 7). No other significant effects were obtained on this measure.

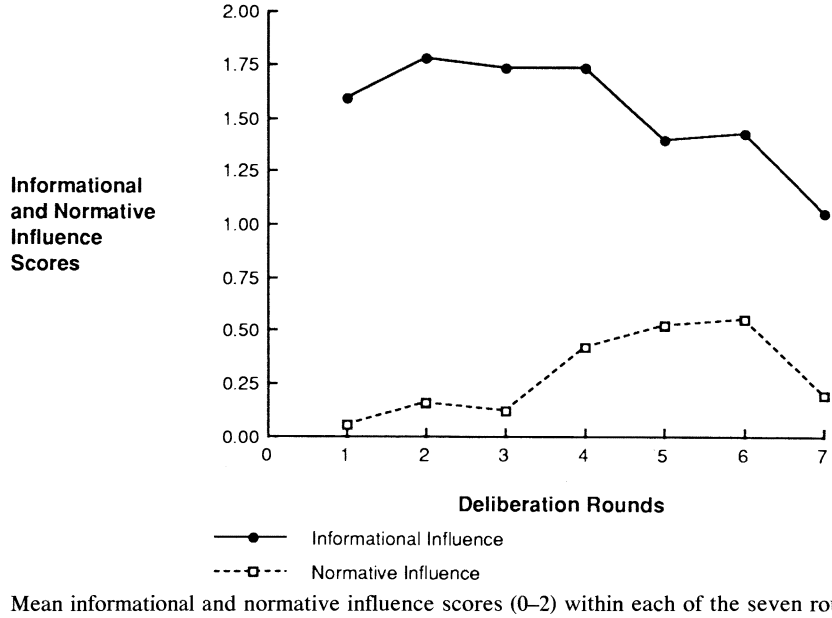

Fig. 3. Mean informational and normative influence scores (0–2) within each of the seven rounds of deliberation.

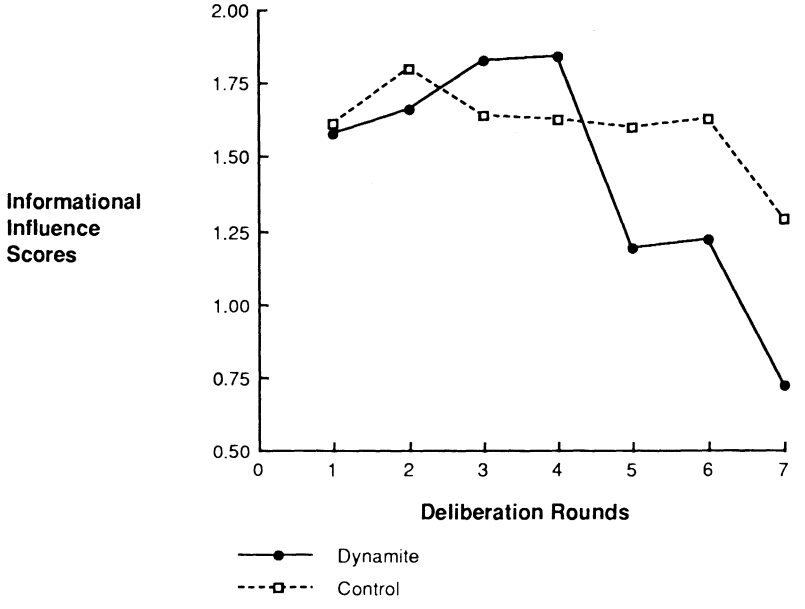

Fig. 4. Mean informational influence scores obtained in the dynamite and control conditions during each round of deliberation.

Except for the main effect for deliberation rounds, no other effects were obtained on normative influence scores. There was, however, a nonsignificant three-way interaction which indicated that normative influence tended to increase over rounds more in the dynamite majority group than in all other groups, $F(6,252) = 1.39$, $p < .25$. Although this result was not significant, a closer look at these data suggests that the dynamite charge did—at least initially—lead jurors in the voting majority to exert increasing amounts of social pressure. To test this more limited hypothesis, difference scores were created by subtracting the normative influence scores obtained in the third round (i.e., immediately preceding the judge's instruction) from those obtained in the fourth round (i.e., immediately following the judge's instruction). A 2 × 2 ANOVA on these scores yielded a significant interaction, $F(1,42) = 4.24$, $p < .05$. As predicted, the dynamited majority group exhibited more of an increase in normative pressure than all the other groups ($d = .56$, compared to .13 in the majority–control group, .20 in the minority–dynamite group, and .25 in the minority–control group, all p's $< .05$).

To measure the amount of effort subjects devoted to the deliberation process, we recorded the number of words written in each note. On average, each note contained 41.4 words. A 2 × 2 × 7 repeated measures ANOVA on these data further revealed three significant effects. First, subjects in the minority condition wrote more extensive explanations than those in the majority (M's = 47.67 and 35.09), $F(1,42) = 6.65$, $p < .01$. Second, a significant main effect for rounds was obtained, $F(6,252) = 7.36$, $p < .001$, as subjects increased their word output from the third round to the fourth (i.e., right after the judge's instruction; M's = 42.83 and 50.32, $p < .05$) and decreased their output from the sixth round to the seventh

(M's = 42.45 and 25.25, respectively; $p < .01$). Third, we obtained a significant Instruction × Rounds interaction, $F(6,252) = 2.43$, $p < .05$. Relative to subjects in the control condition, those who received the dynamite charge wrote shorter explanations during the sixth and seventh rounds (both p's $< .05$).

DISCUSSION

American judges used to urge deadlocked juries to resolve their disagreements through various coercive measures such as the denial of food and drink, excessive deliberation hours, and the threat of jail for contempt of court (Kassin & Wrightsman, 1988). Then in *Allen v. U.S.* (1896) and *Lowenfield v. Phelps* (1988), the Supreme Court sanctioned the use of a supplemental yet controversial instruction known as the dynamite charge.

The present study examined the effects of this instruction on the voting, perceptions, and deliberation behavior of mock jurors. Specifically, we tested the hypotheses that the dynamite charge causes jurors in the minority to feel pressured and change their votes and that it encourages those in the majority to exert increasing amounts of normative influence. On three sets of measures, summarized below, our results provide initial support for these predictions.

First, among subjects who were caught in a deadlocked jury (i.e., who remained committed to their initial votes after the third round), those in the voting minority changed their verdicts more often than those in the majority after receiving the dynamite charge, but not in the control group. Second, minority subjects who received the dynamite charge reported feeling heightened pressure from the judge—more than in the majority and minority control groups. Even though all subjects received the same deliberation notes, those in the minority dynamite group imagined they were under more pressure from the other jurors. Third, compared to subjects in the control condition, those who received the dynamite charge exhibited a greater reduction across deliberation rounds in the length of their notes and their use of *informational* influence. At the same time, the greatest increase in *normative* influence—at least on a temporary basis, from the round before to the round after the judge's instruction—was exhibited by the majority dynamite group. Since all subjects received notes that were informational in nature, these findings are rather striking. Clearly, the dynamite charge may tip in an undesirable direction the balance of forces operating on individual jurors.

Taken together, these results call into question the use of the dynamite charge as a means of eliciting verdicts from deadlocked juries. We should add that other adverse effects are also possible. It is conceivable, for example, that jurors are uncertain of their right to declare a hung jury and that the dynamite charge leads them erroneously to believe that they cannot. To examine this possibility, we had a group of local residents read about the events of the case cited earlier in which a jury deliberated for 2 days, reported it was deadlocked, was reconvened by the judge, and remained hung after a third day of deliberation. Half the subjects heard the judge deliver a dynamite charge, and half did not. Subjects were then asked:

"Would the judge in this case accept a hung jury, or would he require a verdict?" Much to our surprise, the majority of subjects (several of whom had previously served on real juries) believed the judge would "require" a verdict—55% in the control group, and 91% in the dynamite group. Thus it is possible that for the many jurors who are uncertain of their options, the dynamite charge pragmatically implies that they have no choice but to reach a unanimous verdict.

At this point, let us consider the practical significance and limitations of the present study, and possible directions for further research. Clearly, our findings suggest that the Allen charge—at least in its original form—causes jurors in the minority to feel pressured enough to change their votes and encourages those in the majority to exert increased amounts of social pressure. Having obtained highly comparable data in an earlier pilot study, we have reason to believe that these findings are reliable. Our findings should be considered tentative, however, with regard to their external validity. In order to systematically test the impact of the dynamite charge on the votes, perceptions, and behaviors of individual jurors, we contrived an experimental situation in which lone subjects "deliberated" by voting and passing notes. Thus it remains to be demonstrated if the results obtained in our experimental setting can be generalized to the jury room. As a matter of speculation, we would argue that our results *under*estimate the impact of the dynamite instruction on the verdicts of real or mock deliberating juries. Within our dynamite groups, majority subjects applied increasing amounts of social pressure, whereas minority subjects imagined pressures that did not exist. Bring these factions together in real groups, where the stakes are greater and where the pressures are not just imagined, and the dynamite charge is likely to have added impact.

Still, further research is needed to address the external validity of the present findings. In principle, two approaches may be taken. The first is to conduct a field experiment involving real cases in which deadlocked juries are randomly assigned to receive either the dynamite charge or a control instruction. Because random assignment of real juries is not feasible, however, a more realistic approach is to conduct a large-scale laboratory study involving interacting mock jurors. To conduct such an experiment, one would need to assemble a large number of juries and randomly assign to condition those groups that remain deadlocked for a length of time sufficient to elicit the dynamite manipulation. In light of our results, we believe that follow-up research of this magnitude is warranted.

It also remains to be seen what specific aspects of this instruction are responsible for its effects. Opponents have criticized the wording of the dynamite charge (e.g., the statement that minority jurors should reexamine their own views) the contents of other, similar charges (e.g., statements that the jury must decide the case, references to the expense of a new trial), and the context in which all such instructions are delivered (e.g., whether the jury is first polled, the pressure created by any instruction delivered only after the jury has failed to agree on a verdict). The present study does not enable us to isolate those aspects of the dynamite charge—its content, wording, or the circumstances under which it is used—responsible for these effects. Nor does it address the many variations of this instruction that are typically used.

The moderating role of contextual factors is a critical subject for further research. The recent case of *Lowenfield v. Phelps* (1988), in which the U.S. Supreme Court upheld the use of the dynamite charge, illustrates the point. In that case, a Louisiana jury told the judge after 2 days of deliberation that it had stalled and was experiencing "much distress." In response, the judge declared that "I order you to go back to the jury room and to deliberate and arrive at a verdict." After convicting the defendant of first-degree murder shortly thereafter and having been informed that their failure to agree on a sentence would automatically result in life imprisonment rather than the death penalty, the jury reached another impasse in its sentencing deliberations. At that point, the judge asked jurors to write their names on a piece of paper and indicate whether they thought more deliberations would be helpful in reaching a unanimous decision. Eight of the 12 jurors said yes, but when a second poll was taken, that number was up to 11. The judge then delivered a dynamite charge, and 30 minutes later, the jury returned with a death sentence. Considering these circumstances, the Supreme Court concluded that the judge's instruction was not coercive. The Court added, however, that "by so holding we do not mean to be understood as saying that other combinations of supplemental charges and polling might not require a different conclusion" (p. 555).

Finally, it is worth noting the possible remedies that are available to combat the negative effects of the Allen charge. The ABA (1968), for example, offered an alternative instruction to be included as part of a judge's final charge to the jury, and then again later, if necessary. While the ABA instruction emphasizes the jurors' duty to consult with one another and be accountable to defend their positions, it also instructs jurors not to surrender their own convictions and does not single out those in the voting minority. On the basis of intuition, some jurisdictions have favored this alternative. Pending empirical research, however, it remains to be seen whether it "works"—that is, whether it elicits verdicts through informational rather than normative influence.

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