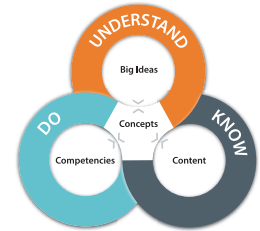


A Solution without a Problem?

“[Cannabis] is not really new but, as yet, is comparatively unknown in the United States and Canada, although three of the American States—California, Missouri and Wyoming—have legislated against its use, the authorities and police officers generally being woefully ignorant of its nature or extraordinary menace.”

— Judge Emily Murphy



In 1923, cannabis was added to the schedule of the Opium and Narcotic Control Act, effectively making it illegal to use in Canada. But since cannabis use was not really a social issue at the time, it has been argued that adding the plant to the Act was “a solution without a problem.” Indeed, the first seizure of marijuana cigarettes in Canada did not occur until 1932, nine years after the law was established, which begs the question: Why was cannabis criminalized?

In this lesson, students are invited to explore a CBC article on how Canada’s anti-cannabis policy was created and to examine passages from *The Black Candle*, Emily Murphy’s collection of statistics and news commentary on drug use in North America in the early 1920s. The exercise prompts students to explore and assess factors that may have influenced drug policy in Canada in the past and consider those influencing drug policy today.

Instructional strategies

- Invite students to read and reflect on the CBC article [Marijuana was criminalized in 1923, but why?](#) (also available as a [handout](#)). Begin by posing and discussing a few questions like those below and then suggest students each write a similar question they would like to discuss. Have the class select several of those for further discussion.
 - According to the article, “cannabis indica (Indian hemp) or hasheesh” was mysteriously added to a list of prohibited drugs in a drug control bill in 1923. The bill passed without any discussion about cannabis in the House of Commons or the Senate. Should anything be made illegal without discussion? What, if anything, do you think should have been considered or discussed before cannabis was made illegal? Why?
 - When something is declared illegal, does that make it wrong? How about when something becomes legal? Does that make it right?
 - What impacts might criminalizing, or decriminalizing, something have? Are those impacts the same for everyone? Do all such acts mean someone wins and someone loses? Explain.
- The article [Marijuana was criminalized in 1923, but why?](#) claims that “Canada liked to see itself as a leader in the drive for international drug control.” Have students explore what was happening in terms of international drug control in the late 1800s and early 1900s using the [Drug History Timeline](#). Have them develop an argument for how this may have influenced the 1923 bill.



3. Project or handout copies of the [Selected Passages](#) handout. Give students time to review the document and then, in small groups or as a class, invite them to discuss using questions like:
 - The passages reflect how a judge, police chief, and doctor talked about cannabis a century ago. How does that compare to how authorities talk about cannabis today? What does this tell us about North American society and values? How can we explain these changes?
 - The *Black Candle* was a best-seller, and its contents were published earlier in a series of Mclean’s magazine articles. How might Murphy’s ideas about cannabis have influenced the lack of debate in government about criminalizing cannabis? Have ideas in more recent media had any influence on government debate about cannabis legalization? Explain.
 - Consider the emphasis on “them not us” in the passages. How is “otherness” related to stigma? Can you think of other examples of “otherness” in our society? What is the impact of “otherness” on individuals and society?

4. The expression “a solution without a problem” has been used to describe the 1923 decision to criminalize cannabis use. Invite students to reflect on that expression and consider what it might mean in their daily lives. Are there rules or policies that they have ever wondered about? What would a person or group have to do change a rule or policy?
 - a. Have students work in small groups. Ask each group to choose a community or school policy that they might call into question.
 - b. Invite groups to consider the various stakeholders and issues that might have been involved in the creation of the policy (e.g., who made the policy, and why; what various points of view were involved in developing the policy; which, if any, were not likely considered; who’s most affected by the policy,

When young people have the opportunity to engage in the decision-making processes that affect their lives they are more likely to report better health, higher self-esteem and greater educational aspirations

**—McCreary Centre Society. (2009).
A Seat at the Table.**

and why; etc.). Then invite groups to research/ explore everything they can find out about how and why the policy came into being and how the policy might be changed.

- c. Have groups present their findings and engage their fellow students in learning how to go about making changes to a policy.

Drug literacy

Big idea

- ✓ People have been using drugs for thousands of years and in almost every human culture
- ✓ We can learn how to control our drug use by reflecting on the different ways people have thought about drugs, exploring stories from various cultures and listening to each other



Competencies

- ✓ Recognize binary constructs (e.g., good vs bad) and assess their limitation in addressing complex social issues like drug use
- ✓ Recognize how official responses to drugs may have less to do with the drug than with other factors
- ✓ Develop social and communication skills in addressing discourse and behaviour related to drugs

Links to Curriculum

Social Studies 10

Big ideas

- ✓ The development of political institutions is influenced by economic, social, ideological, and geographic factors
- ✓ Worldviews lead to different perspectives and ideas about developments in Canadian society
- ✓ Historical and contemporary injustices challenge the narrative and identity of Canada as an inclusive, multicultural society

Competencies

- ✓ Use Social Studies inquiry processes and skills to ask questions; gather, interpret, and analyze ideas; and communicate findings and decisions
- ✓ Assess the significance of people, places, events, or developments, and compare varying perspectives on their significance at particular times and places, and from group to group (significance)
- ✓ Assess the justification for competing accounts after investigating points of contention, reliability of sources, and adequacy of evidence, including data (evidence)
- ✓ Assess how underlying conditions and the actions of individuals or groups influence events, decisions, or developments, and analyze multiple consequences (cause and consequence)
- ✓ Explain and infer different perspectives on past or present people, places, issues, or events by considering prevailing norms, values, worldviews, and beliefs (perspective)
- ✓ Make reasoned ethical judgments about actions in the past and present, and assess appropriate ways to remember and respond (ethical judgment)

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Marijuana was criminalized in 1923, but why?

By Daniel Schwartz, [CBC News](#)

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<http://www.cbc.ca/news/health/marijuana-was-criminalized-in-1923-but-why-1.2630436>

Parliament added marijuana to a list of proscribed drugs in 1923. No explanation was given for why they criminalized smoking pot, which some protesters did at the Fill the Hill marijuana rally on Parliament Hill in Ottawa on April 20. (Justin Tang/Canadian Press)

Pot activists in Canada who took part in the annual “Global Marijuana March” on May 3 demanded the decriminalization of marijuana.

They might also have asked why it became illegal in the first place.

That happened in 1923, and if there was any kind of parliamentary debate, historians have been unable to find a record of it.

When Parliament decided to add marijuana to the schedule of proscribed drugs that year, Canada became one of the first countries to make smoking pot illegal. The U.S. didn’t accomplish that until 14 years later, in the midst of the Great Depression.

In 1923, then prime minister William Lyon Mackenzie King’s Liberal government introduced an Act to Prohibit the Improper Use of Opium and other Drugs. The federal health minister at the time, Henri Beland, said the bill was a consolidation of other legislation that had been passed over the previous few years, with some changes.

At the time, the only drugs on the schedule were opium, morphine, cocaine and eucaine (a local anesthetic first introduced as a substitute for cocaine).

The new bill added three drugs to the proscribed list: heroin, codeine and “cannabis indica (Indian hemp) or hasheesh.”

The only mention of the proposed changes to the schedule recorded in Hansard was on April 23, when Beland told the House of Commons, “There is a new drug in the schedule.”

In fact, there were actually three new drugs. Historian Catherine Carstairs says Beland was likely referring to cannabis when he said there was “a new drug,” because in the government’s view, “the other two are extensions of other products that had already been added to the schedule.”

Carstairs is the author of *Jailed for Possession: Illegal Drug Use, Regulation and Power in Canada, 1920-1961* and chair of the University of Guelph’s history department.

The next month, on May 3, when it was the Senate’s turn to review the legislation, Raoul Dandurand, the Liberal government’s leader in the Senate, told his colleagues, “There is only one addition to the schedule: Cannabis Indica (Indian Hemp) or hasheesh.”

And, in what may be the most detailed account of these 1923 events, the authors of the 1991 book *Panic and Indifference: The Politics of Canada’s Drug Laws*, state that the health department’s narcotic division’s files contain a draft of the bill that does not include cannabis. There are also several carbon copies, and to one of them was added, “Cannabis Indica (Indian Hemp) or hasheesh.”

It seems no one knows who added that phrase, or ordered it added. But both the House and the Senate agreed to the additions without any discussion.



Heroin and codeine also proscribed

One reason that no one in Parliament asked about or challenged the addition of marijuana to the schedule may be because little was known about the drug in Canada at the time, and very few people were smoking it.

We could find no references to marijuana in either the *Toronto Star* or the *Globe and Mail* in 1923. And there were no police seizures of marijuana until 1932.

Looking back, it may seem odd that a decision that has in one way or another seriously affected the lives of hundreds of thousands of Canadians took place without debate.

There was also no debate in Parliament then about adding the better-known heroin and codeine to the schedule of proscribed drugs either.

Heroin had been on the market since 1898, courtesy of the Bayer pharmaceutical company.

Heroin is the brand name for a semi-synthetic compound derived from morphine, so authorities had probably considered it as a proscribed drug since the first schedule was passed in 1911, which included “morphine, its salts and compounds.”

Proscribing codeine was more controversial, although after it was added doctors, druggists and the pharmaceutical industry successfully lobbied to have codeine decriminalized.

It was removed from the schedule in 1925, though the U.S. government and the Canadian government’s own narcotic division criticized the decision.

Emily Murphy’s ‘new menace’

A 1922 book, *The Black Candle*, by Emily Murphy, is frequently given as the explanation for the King government’s move against marijuana. However, no evidence beyond coincidence has been put forward that the book, or Murphy, influenced the government’s decision.



A statue of Emily Murphy, one of the “Famous Five” feminists, was unveiled in Calgary in 1999. She is also remembered for her anti-narcotic campaigning in the 1920s. (Canadian Press)

The book is based on a series of articles Murphy, then a judge, wrote for *Maclean’s* magazine in 1920. The series did not mention marijuana but her book has a seven-page chapter called, her spelling, “Marahuana – a new menace.”

Murphy starts out by noting “the drug is not really new” and “comparatively unknown in the United States and Canada.”

But, today, that is arguably the best-known chapter in the book, even though historians have not uncovered evidence that this chapter attracted much public attention in its early years.



Murphy herself is best remembered as one of the Famous Five, from the celebrated “persons case” — that women qualify as persons for the purpose of being appointed to the Senate — a suit that eventually won the day in the British Privy Council.

With no parliamentary debate, no evidence of public debate or discussion, and no paper trail about why marijuana was criminalized in 1923, it’s understandable why people would later link the decision to *The Black Candle*. But Carstairs says it’s probably just happenstance.

She also told CBC News, “There were insinuations in the records that the bureaucrats at the division of narcotic control did not think very highly of Emily Murphy and did not pay attention to what she was writing about, and they didn’t consider her a particularly accurate or valuable source.”

A marijuana mystery

Unlike the other drugs on the government’s proscribed list, the book *Panic and Indifference* observes that marijuana was criminalized in Canada long before it could be defined as a social problem. “Why this was so remains a mystery.”

William Lyon Mackenzie King was prime minister in 1923. He had been a driving force for criminalizing opium in 1908. (CBC)

However, this was an era of prohibition and control, and before he became prime minister, Mackenzie King had been a strong advocate for prohibiting opium, which happened in 1908.

Carstairs says that there’s no record King was then keeping a close eye on the drug file and she has found no reference to marijuana in his diaries.

There’s also no reason to think there was any science behind the decision. The major report of the era, and it was seven volumes in length, was Britain’s Indian Hemp Drugs Commission report, published in 1894.

“Moderate use practically produces no ill effects,” according to the report, and the evidence the commission heard “shows most clearly how little injury society has hitherto sustained from hemp drugs.”


An alternative theory for the marijuana ban was put forward in 1974 by Alexander Morrison, an assistant deputy minister at Health Canada. “Col. Sharman, then Director of the Federal Division of Narcotic Control, returned from meetings of the League of Nations convinced that cannabis would soon fall under international control. In anticipation of such action, he moved to have it added to the list of drugs controlled under Canadian law.”

However, Sharman did not become the director of the division until 1927, and before that he was at the department of agriculture, so that explanation goes up in smoke.

Nevertheless, Carstairs argues, “There would have been significant international pressures to do so. Canada liked to see itself as a leader in the drive for international drug control. We were actively involved in all of the international discussions.”

Despite this, she says there was “no international sentiment against smoking marijuana” at the time.

Criminalizing marijuana “had almost no impact in the years immediately after it was added but the fact that it was added has certainly had long-term consequences,” Carstairs says.

Today, when protesters demand decriminalization, the federal government may be able to come up with reasons not to do so, but it would be hard-pressed to explain why it was criminalized in the first place. 



The Black Candle (selected passages)

by Emily Murphy

The Black Candle (published in 1922) was written by Canadian author, women's rights activist and judge, Emily Murphy. While the book is mostly about opium it also contains early 20th-century claims about cannabis and cocaine. In the preface, Murphy explains how she acquired her drug expertise – her official position (as Police Magistrate and Judge of the Juvenile Court at Edmonton) gave her access to unique information, addicts and dealers through which she learned the causes of people's downfall and potential rehabilitation strategies.

[Cannabis] is not really new but, as yet, is comparatively unknown in the United States and Canada, although three of the American States – California, Missouri and Wyoming – have legislated against its use, the authorities and police officers generally being woefully ignorant of its nature or extraordinary menace.

Hashish or hasheesh is the Arabic name and means literally "dried herb." It may be smoked, chewed or drunk. Our English word "assassin" comes from this word.

This Indian hemp is used chiefly in Asia Minor, India, Persia and Egypt, but is being increasingly used on this continent, particularly by the Mexicans, who smuggle it into the United States. Last year fifty-four persons were convicted for using, or peddling it in Los Angeles, California.

According to Charles A. Jones, LA Chief of Police: "Addicts to this drug, while under its influence, are immune to pain, and could be severely injured without having any realization of their condition. While in this condition they become raving maniacs and are liable to kill or indulge in any form of violence to other persons, using the most savage methods of cruelty without, as said before, any sense of moral responsibility."

"Dr. Warnock in The Journal of Mental Sciences for January, 1903, states that acute mania from hasheesh varies from "a mild, short attack of excitement to a prolonged attack of furious mania, ending in exhaustion or even death." He describes the hasheesh user in the following words: "They are good-for-nothing lazy fellows who live by begging or stealing, and pester their relations for money to buy the hasheesh, often assaulting them when they refuse the demands. The moral degradation of these cases is their most salient symptom; loss of social position, shamelessness, addiction to lying and theft, and a loose, irregular life makes them a curse to their families."

The Black Candle ends with an apologia to "addicts" and, ultimately, a handful of lines from a Walt Whitman poem that Murphy claims reflects her own heart:

*From all the rest I single you out,
Having a message for you
Softly I lay my hand upon you
I am more than nurse, more than parent or neighbour
I absolve you from all except yourself.*