ment, religion or morality, have been, sometimes, condemned to the flames, sometimes censured by particular tribunals, and, sometimes, suppressed. This course has been followed under both civil and ecclesiastical authority. Thus, the writings of Arius were condemned to the flames at the council of Nicæca, Nestorius suffered a like fate at the council of Ephesus, and Eutichus at that of Chalcedon. In 1515, the council of Latran, at Rome, appointed clerical censors, to examine all works before publication. The council of Trent delegated the right of supervision to the Pope, and the result was the first strictly Papal Index, published under Pius IV. The claim to continue this censorship of all publications, has ever since been demanded on behalf of the Church, and, up to a certain period, on behalf of the State. In France, however, as we have before remarked, neither the decrees of the Council of Trent, nor the action of the Congregation of the Index, have been in force. Yet the French Bishops have exercised the right of surveillance over publications, not in virtue of any delegation of power from the Holy See, but in virtue of their right to exercise that part of the sovereign power of the State.

In England, after the invention of printing, the ecclesiastical censorship was still asserted, but only as collateral with the censorial rights of the Crown, claimed by virtue of its general prerogative. In the Tudor period, the Star Chamber assumed the right to confine printing to certain centres and to prohibit all publications issued without proper license.

In 1637, a stringent order was issued prohibiting the importation of foreign books to the scandal of religion, the Church or the Government. The censorshif of certain classes of works was assigned to the Archbishop of Canterbury. These restrictions upon the press continued up to 1695, when all acts limiting the freedom of the press came to an end, and, though efforts were made to renew such restrictions, they proved unsuccessful. Since that time there has been no suppression of a newspaper by admistrative authority.

In France, the Government began early to impose stringent restrictions upon printing. An edict of Henry II., in 1559, made it punishable with death to print without authority. The University of Paris originally claimed the right of licensing new theological works, a jurisdiction vested in the Crown by an ordinance of 1561. Offences against religion were severely punished by the secular authorities. Thus, the Parliament of Toulouse sent Vanini to the stake, in 1619, for the crime of publishing a heretical work. A few years later, in 1626, Cardinal Richelieu declared it a capital offence to publish a work against religion or the State. At the revolution, all restrictions upon the liberty of the press were swept away, but were again re-imposed, until finally, on the 24th of July, 1881, a press law was enacted which begins by asserting the liberty of the press, and of book-selling. To-day, in every civilized country in the world, the business of publishing books and newspapers is a free business, in which every citizen may engage, without license, subject, of course, to prosecution for the offences which he may commit in the course of his business. I have made these remarks to show that, at the date of the cession of Canada to England, and of the treaty of 1763, neither in France nor in England was the censorship of publications regarded as an ecclesiastical concern, but as a branch of civil administration, and was exerted by the civil power, sometimes through the ecclesiastical authorities, for the protection of the Crown, as well as in fulfilment of the duty of the State to protect the Church, which the Sovereign, as head of the Church, was bound to protect.

One of the best known cases in which the *appel comme d'abus* was used in France, had reference to a mandement published by the Archbishop of Lyons, in 1844, condemning Dupin's work on Ecclesiastical law: the 9th March, 1845. This mandement was itself suppressed by royal authority, as being an attack upon the organic laws and royal authority in France.

To-day, in England, all the restrictions upon the publication of newspapers have been swept away; the occupation of newspaper proprietor, with his mode of investing capital, is as free as other occupations, and there are few peculiarities left, except by way of facilitating the discovery of proprietorship when that is needful. There is no court or functionary which has any power whatever to suppress, with or without reason, any newspaper, the publishers of which are liable for libels to the same extent as the publishers of other books, but no further, and the punishment does not directly affect the continuance of the publication. Newspapers may entail punishment on their proprietor and publisher on the occasions of each offence, but cannot, on any pretext, be suppressed.

In a case of Rex vs. Carr, reported in 7, St. Tr. 1111, C. J. Scoggs made an order prohibiting the publication of a periodical entitled *The Weekly Packet of advice from Rome.* Subsequently this judge was impeached before Parliament, one of the articles of his impeachment being such illegal order. 8, St. Tr., 198.

We have, however, in Canada, specific legislation regarding the right to publish certain matters. See Arts. 292, 293 and 294 of the Criminal Code.

Art. 292. No one commits an offence by publishing defamatory matter which he, on reasonable grounds, believes to be true, and which is relevant to any subject of public interest, the public discussion of which is for the public benefit.

Art. 293. No one commits on offence by publishing fair comments upon the public conduct of a person who takes part in public affairs.

Art. 294. No one commits an offence by publishing defamatory matter for the purpose, in good faith, of seeking remedy, or redress, for any private or public wrong, or grievances, etc.

Article 299.—It shall be a défense to an indictment or information for a defamatory libel, that the publishing of the defamatory matter, in the manner in which it was published, was for the public benefit at the time when it was published and that the matter itself was true.

We find then, that the publication of newspapers has always been assumed to be, both in France and England, a matter which concerned the civil power, and that, to-day, in this country, the established publi-