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7 Oct. [1530]
R. O. St. P. VII. 261.

6667. HENRY VIII. TO GHINUCCI, BENET, AND CASALE.

Received, 30 Sept., their joint and several letters, dated Rome, the 17th, showing that their efforts with the Pope in the King's behalf had been fruitless. Wishes they had not refrained from alleging the custom of England that no one should be compelled to go to law out of the kingdom. This is a privilege, grounded on solid reasons, which their hired advocates at Rome will not admit; but the Pope cannot well call it in question, else it may be inquired in turn why the bishop of the Roman Church should have supremacy over all other churches, or why he should thus treat a King who acknowledges no superior on earth. Why should Henry be compelled to try a cause at Rome, which concerns not only his own conscience but the succession to his kingdom? The only answer that can be returned is, that princes have sometimes allowed it in the past, but Henry believes very few have done so; and that is no argument for the future. **At Rome the case may be viewed differently; but the King, who is supreme in his own kingdom, can interdict to all inferiors the power of appeal.** They must, therefore, put these considerations strongly before the Pope, and continue to press him for an answer to the King's demands; for he and Francis act together, and ask only what is just. As the Pope has acknowledged our marriage to be prohibited by Divine law, his first care, as God's vicar, ought to be to vindicate that law.

The university of Padua has come to a determination that the things of God are not committed to the Pope, but only matters of human jurisdiction; and it is most extraordinary that when the Pope acknowledges that Divine law warrants the King in departing from his marriage, he should still delay the remedy. It is not possible that the Queen could obtain as many opinions in her favor as the King has, without appealing to the Lutherans; nor can the Emperor's influence or the Pope's favor counterpoise the opinions given.

If none of these arguments have any effect, you shall request the Pope not to proceed in the matter at Rome before the end of January; but this you must do in your own name, not in ours, suggesting what he himself proposed, and what you also think expedient, viz., that both sides should abstain meanwhile from proceeding either at Rome or in England, so that in [3005] the interval the privileges both of the King and of the Pope may be examined. If the Pope, however, make a difficulty about granting this without a similar assurance on Henry's part, they may give it in Henry's name.

After you have obtained the prorogation of our cause, you shall present our letters and those of the French king, not failing to inculcate on the Pope that our marriage is prohibited both by Divine and by natural law; which two laws, in our case, you must by no means allow to be disjoined. We wonder, though you have been so diligent in other things, you have not taken counsel hitherto with learned men what we should do in the last resort, in declining the Pope's judgment, or what we should allege or propose to stave it off. See what you can do now to this effect. We wonder also that you accepted so short a time, viz., to the middle of this month, to have an answer from us whether we wished the cause further prorogued, with a promise on the King's part not to proceed in England; but what is done cannot be corrected.

You are to thank Decius Senensis for his opinion, which, so far as it concerns our cause, is very satisfactory; but what he adds as to the interpretation of Divine right by the canonists was foreign to his undertaking (*res a professione aliena*); for Divine law does not receive its interpretation from the canons, but gives it to them. You must mention this to Decius, and get him to give you his opinion without the latter part. You must keep the French cardinals friendly. We send letters for cardinal Trani, which you shall deliver. Hampton Court, 7 Oct. 1530.

Signed at the head. Lat. Add. Endd.