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[11 July 1533]
Add. MS. 28,586, f. 331.
B. M.

808. KATHARINE OF ARRAGON.

“Relacion de lo que ha pasado sobre la causa de la Serenisima Reyna de Ynglaterra.” When the Pope returned from Bologna, the English labored for the revocation of the two briefs against the King, and the Emperor's agents opposed it. The Pope committed the matter to cardinals Monte and Campeggio, to Simoneta and Paul de Capisuchis, auditors of the Rota, and to the Datary, who decided against the English. At this time the count of Cifuentes arrived at the Court. In a few days news came that the king of England had married Ana, and it was determined to let him know that he had incurred the censures and penalties mentioned in the briefs. On the other side, five *remissorias* were presented for the principal matter, but no more, on account [358] of the nearness of the vacation. At the arrival of Rodrigo d'Avalos, the Count and he gave the Pope the Emperor's letter, and in consequence of their representations he ordered Paul de Capisuchis to report (*refiriese*) the cause in Consistory. This he did in three Consistories. His Holiness also ordered the Rota to examine everything. All the cardinals and auditors of the Rota were informed, as many doubts were urged by the English, and some of the cardinals were French, and inclined to England. Finally, the Consistory decided in favor of the Queen, and that the prohibition in this case was not *de jure divino*.

At this juncture, when a sentence for the Queen was inevitable, two days before the last Consistory, the English alleged that the King had examined witnesses when the case was before the Legates, who had not been produced at Rome, and that the Pope could not determine the case without seeing the whole process. To this it was replied that the Queen had sent the whole process up to the time she appealed, and no further proceedings could be received. The Queen not only appealed, but committed the cause anew against the King, *per viam querel super molestationibus et matrimonio*, by virtue of which the King was cited afresh, and the cause was *instructa*, so that what is said about having more process does not hinder the expedition. Even supposing that those witnesses were examined, which is not certain, except that the Pope says Campeggio told him that witnesses were examined, it was said that they could not prove anything to impeach the lawfulness of the Queen's marriage.

Supposing that the prohibition of marriage with a brother's widow is not *de jure divino*, it is clear that although witnesses might prove that the marriage with Arthur was consummated ; that Henry was a minor when the dispensation was obtained, and protested on arriving at puberty that he would not marry Katharine, and that he did not consider the dispensation valid ; and that there were no wars nor fear of wars ; all this is not to the point, as the dispensation was granted by Julius “*pro pace conservanda*,” and this cause was true. It cannot be denied that the second marriage cemented the peace and alliance. The *remissorias* already proved show sufficient cause for a dispensation, even if the marriage was prohibited by divine law, which it is not. If it cannot be proved that Katharine was a virgin when she married the King, it cannot be denied that it is doubtful ; and the present marriage being public, notorious, and consummated, cannot be dissolved on account of the former, of which the consummation cannot be proved.

Even if the prohibition was *de jure divino*, the dispensation was good. The King has acted on it for many years, and deprived himself of the right of protestation against it. For these and many other reasons, the Pope may very well decide the case with satisfaction to his honor and conscience.

But it is thought the Pope and Cardinals have wished to desist (*sobreser*) in the expedition of the principal cause, as they clearly showed before this doubt about the process was urged. Seeing this deliberation, another way (*verso*) was taken to revoke *ex officio pastorali* all that the king of England had done to the prejudice of the Queen.

On the 11th of this July, the Pope in Consistory pronounced a sentence restoring the Queen to her royal state, annulling the King's marriage with Ana, whose children are declared illegitimate, and declaring that the King is excommunicate, and has incurred the penalties contained in the briefs.

The Queen's agents, seeing that the principal cause was not despatched in the last Consistory, presented the other *remisorias*, that matters might be arranged during the vacation, and the expedition insisted on at the next audiences. It is thought it will be shortly obtained.

A term was assigned to the King, until 1 Oct., for him to present any processes or writings of which he intends to make use.

Sp., pp. 9. Modern copy.