

peaceably, they are under the king's protection; though liable to be sent home whenever the king sees occasion. But no subject of a nation at war with us can, by the law of nations, come into the realm, nor can travel himself upon the high seas, or send his goods and merchandize from one place to another, without danger of being seised by our subjects, unless he has letters of safe-conduct; which by divers antient statutes^o must be granted under the king's great seal and inrolled in chancery, or else are of no effect: the king being supposed the best judge of such emergencies, as may deserve exception from the general law of arms. But passports under the king's sign-manual, or licences from his ambassadors abroad, are now more usually obtained, and are allowed to be of equal validity.

INDEED the law of England, as a commercial country, pays a very particular regard to foreign merchants in innumerable instances. One I cannot omit to mention: that by *magna carta*^p it is provided, that all merchants (unless publicly prohibited beforehand) shall have safe conduct to depart from, to come into, to tarry in, and to go through England, for the exercise of merchandize, without any unreasonable imposts, except in time of war: and, if a war breaks out between us and their country, they shall be attached (if in England) without harm of body or goods, till the king or his chief justiciary be informed how our merchants are treated in the land with which we are at war; and, if ours be secure in that land, they shall be secure in ours. This seems to have been a common rule of equity among all the northern nations; for we learn from Stiernhook^q, that it was a maxim among the Goths and Swedes, "*quam legem exteri nobis posuere, eandem illis ponemus.*" But it is somewhat extraordinary, that it should have found a place in *magna carta*, a mere interior treaty between the king and his natural-born subjects; which occasions the learned Montesquieu to remark with a degree of admiration, "that the English have made the protection of foreign

^o 15 Hen. VI. c. 3. 18 Hen. VI. c. 8.
20 Hen. VI. c. 1.

^p c. 30.

^q *de jure Sueon. l. 3. c. 4.*

"merchants