

*done sunt.* And the reason which is given by Grotius<sup>k</sup>, why according to the law of nations a denunciation of war ought always to precede the actual commencement of hostilities, is not so much that the enemy may be put upon his guard, (which is matter rather of magnanimity than right) but that it may be certainly clear that the war is not undertaken by private persons, but by the will of the whole community; whose right of willing is in this case transferred to the supreme magistrate by the fundamental laws of society. So that, in order to make a war completely effectual, it is necessary with us in England that it be publicly declared and duly proclaimed by the king's authority; and, then, all parts of both the contending nations, from the highest to the lowest, are bound by it. And wherever the right resides of beginning a national war, there also must reside the right of ending it, or the power of making peace. And the same check of parliamentary impeachment, for improper or inglorious conduct, in beginning, conducting, or concluding a national war, is in general sufficient to restrain the ministers of the crown from a wanton or injurious exertion of this great prerogative.

IV. BUT, as the delay of making war may sometimes be detrimental to individuals who have suffered by depredations from foreign potentates, our laws have in some respect armed the subject with powers to impel the prerogative; by directing the ministers of the crown to issue letters of marque and reprisal upon due demand: the prerogative of granting which is nearly related to, and plainly derived from, that other of making war; this being indeed only an incomplete state of hostilities, and generally ending in a formal denunciation of war. These letters are grantable by the law of nations<sup>l</sup>, whenever the subjects of one state are oppressed and injured by those of another; and justice is denied by that state to which the oppressor belongs. In this case letters of marque and reprisal (words in themselves synonymous and signifying a taking in return) may be obtained, in order to seize the bodies or goods of the subjects of the offending state, until satis-

<sup>k</sup> *de jur. b. & q. l. 3. c. 3. §. 11.*

<sup>l</sup> *Ibid. l. 3. c. 2. §. 4 & 5.*

faction.