vants required to perform acts of trifling import or immediate necessity'"[3].

The rationale of this as well as all the other recognized exceptions to the general rule has been declared to be "convenience amounting almost to necessity. Wherever to hold the rule applicable would occasion very great inconvenience, or tend to defeat

take a distress. 4 H. 6, 7, 13, 17; 7 H. 7, 9; 13 H. 8, 12; Plowd. 91b; 12 Ed. 4, 10a; 4 H. 7, 15, 26; 26 H. 8, 8b; Bro. Corp. 51; Bro. 182b.

In Com. Dig. "Franchises" (F. 13) it is said: 'A corporation which has a head may give a personal command, and do small acts without deed: as it may retain a servant, a cook, butler, etc."

In one of the older cases it has been laid down generally that "one may justify in trespass as bailiff to a corporation without deed." *Panel* v. *Moore* (1553) Plowd. 91. So also it seems to have been laid down with any qualification in *Manby* v. *Long* (1684) 3 Lev. 107, 2 Saund. 305; *Anon.* (1702) 1 Salk. 191, (where a decision to the same effect by the Exchequer Chamber, *Carey* v. *Mathews*, is mentioned in a note of the reporter), that a corporation may appoint a bailiff to distrain without deed. But in *East London Waterworks Co.* v. *Bailey* (1827) 4 Bing. 283 (p. 288), the right of making a parol appointment for this purpose is instanced by Best, C.J. as being an exception to the general rule which was justifiable on the ground of the necessity of acting immediately, as the cattle might have escaped before the seal could be affixed; and he lays it down that "it is only in cases of necessity, occasioned by the hurry of the proceedings" that such an appointment may be made. In *Arnold* v. *Poole* (1842) 4 Man. & G. 860 (p. 877), the validity of such an appointment is based by Tindal, C.J., upon a similar consideration. These glosses upon the earlier decisions indicate the extent to which they are to be accepted as authorities. In *Horne* v. *Ivy* (1670) 1 Ventr. 47, 2 Keb. 567; 1 Mod. 18, the defendant justified a trespass for a seizure of a ship under the patent of the Canary Company, as servant of the company; and it was held, on demurrer, that he should have shewn in his plea that he was authorized by deed. But this decision was said by Littledale, J., in *Smith* v. *Birmingham Gas Co.* (1834) 1 Ad. & El. 526, to have proceeded on the ground that the service was an extraordinary one.

In *East London Waterworks Co.* v. *Bailey* (1827) 4 Bing. 283, Best, C.J., observed that one exception to the general rule is admitted, "where the acts done are of daily necessity to the corporation, or too insignificant to be worth the trouble of affixing the common seal." This statement in which "necessity" is adverted to be merely as one of two considerations upon which the rule is based referred, and not as the fundamental and only one with reference to which all others are to be regarded as derivative and subsidiary, seems to be indicative of a logical standpoint somewhat different from that which is adopted in the cases just cited.

[3] Tindal, C.J., in *Arnold* v. *Poole* (1842) 4 Man. & G. 860 (p. 877). In a subsequent sentence he designates the excepted contracts as those which "relate either to trivial matters of frequent occurrence, or such as from their nature do not admit of delay."

Other statements of a similar tenor have been made by various modern judges.

"By the ancient common law, a corporation was at liberty to do little matters without seal, namely, to appoint a servant and the like; but there is no case which goes the length of determining that they might contract