cases a "satisfactory distinction may be drawn between those whose labour is continuous and requires no application of thought and those whose labour requires the application of a certain amount of thought and skill" (*ff*). But the most generally serviceable test is furnished by the doctrine that the essential question to be answered in each instance is whether the duties performed by the servant were mainly mental or mainly physical, and that the Act applies only where his duties belong to the latter category (*gg*). This doctrine involves the corollary that the mere user of the hands in matters incidental to a man's employment does not constitute him a manual labourer within the meaning of the Act (*hh*). Following out this conception the courts have held that an action can not be maintained under the Act of 1880 by a person employed by a firm of manufacturers "to assist the firm, as a practical working mechanic, in developing ideas the firm might wish to carry out, and to originate and carry out ideas and inventions suitable to the business of such firm" (*ii*); nor by an

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a person engaged in telegraphing or in writing. A "hairdresser" has been held not to be a "workman" on the ground that, although he is a "handicraftsman," he is not engaged in "manual labor," *Queen* v. *Justices of South* (1900) 2 Ir. Rep. 714.

(*ff*) Grantham, J., in *Cook* v. *North Metropolitan Tramways Co.* (1887) L.R. 18 Q.B. Div. 683, 56 L.J.Q.B.N.S. 309, 56 L.T.N.S. 448, 57 L.T.N.S. 476, 35 Week. Rep. 759, 51 J.P. 630.

(*gg*) Pollock, B., in *Hunt* v. *Great Northern R. Co.* [1891] 1 Q.B. 601, 60 L.J.Q.B.N.S. 216, 64 L.T.N.S. 418, 55 J.P. 470.

(*hh*) *Pound* v. *Lawrence* (1891) 1 Q.B. (C.A.) 226, (rev'g decision of Q.B.D.) "It is difficult," said Brett M.R., "to imagine any work done by man so purely intellectual as to require no kind of work with the hands; and the converse is equally true, that there can hardly be work with the hands that requires no intellectal effort. If, then, the words 'manual labour' are to have the full significance which could be put on them, they would be extended to every kind of employment. That cannot be the true meaning of the statute, but some more confined interpretation must be arrived at. I agree that this must be done by looking to the nature of the substantial employment, and not to matters that are incidental and accessory."

(*ii*) *Jackson* v. *Hill* (1884) 13 Q.B D. 618.

(*jj*) *Morgan* v. *London General Omnibus Co.* (1884) 13 L.R.Q.B. (C.A.) 832; 53 L.J.Q.B.D. 352, 51 L.T.N.S. 213, 32 W.R. 759, 48 J.P. 503, aff'g (1883) 12 L.R. Q.B.D. 201, 50 L.T.N.S. 687, 32 W.R. 416, (disapproving *Wilson* v. *Glasgow Tramways Co.* (1878) 5 Sc. Sess. Cas. (4th Ser.) 981, where it was held by Lords Moncrieff and Gifford, with some expression of doubt that a tramway conductor was within the Act). A conductor, said Brett, M.R., "does not lift the passengers into or out of the omnibus. It is true that he may help to change the horses; but his real and substantial business is to invite persons to enter the omnibus and to take and keep for his employers the money paid by the passengers as their fares; in fact, he earns the wages becoming due to him through the confidence reposed in his honesty."