

## R. v. MAILLOS.

A CRIMINAL REVIEW CASE OF 1934.

*Regulation 12 of the Mining Regulations under the Mining Proclamation, 1912 (Cap. 73)—unauthorised person entering mine property—meaning of the term “unauthorised person”.*

Regulation 12 of the Mining Regulations under the Mining Proclamation, 1912 (Cap. 73) reads:

“No unauthorised person shall enter into any part of a mining property whether surface or underground.”

The Mining Ordinance enacted as the Mining Proclamation, 1912, was repealed and replaced by the Mining Ordinance (Cap. 91) in 1958. Regulation 1907 of the Mining Regulations made under the new Ordinance reads thus:

“No unauthorised person shall enter any part of the mining property in the immediate vicinity of, or within a fence enclosing, any shaft or other mine working or any plant or machinery.”

See also *R. v. J. B. Metcalfe Walton* 2 N.R.L.R. 207.

**Fitzgerald, A.J.:** The term “unauthorised person” means a person without lawful excuse. A lawful excuse need not necessarily be a signed authority, it could be an authority by implication, invitation, custom, etc. In each case it is for the magistrate to decide whether the circumstances alleged by the defence constitute a lawful excuse.