

REGISTERING BETS

The defendant is charged with unlawfully (keeping a place for registering bets or buying or selling pools) (being present and involved in registering bets or buying or selling pools). Section 17 of chapter 271 of our General Laws provides as follows:

**“Whoever keeps a (building) (room) . . .
with (apparatus) (books) (any device)
for (registering bets) (buying or selling pools)
upon the result of (a trial or contest of skill, speed or
endurance) (a game [or] competition) . . .
or whoever is present
in [any] place, . . .
engaged in such business or employment . . .
shall be punished”**

In order to prove the defendant guilty of this offense, the Commonwealth must prove beyond a reasonable doubt:

Either: that the defendant knowingly kept a (building) (room) in which there were books or devices for (registering bets) (buying or selling pools

upon [a contest of skill, speed or endurance] [a game or competition]);

Or: that the defendant was present in a place where he (she) was knowingly involved in the business of (registering bets) (buying or selling pools upon [a contest of skill, speed or endurance] [a game or competition]).

The model instruction may be modified as necessary for other alternatives that may be charged under G.L. c. 271, § 17. Contrary to a literal reading of some parts of the statute, conviction under § 17 requires scienter and therefore the defendant must always have some connection, beyond unwitting presence, with a place of illicit gaming. *Commonwealth v. Murphy*, 342 Mass. 393, 173 N.E.2d 630 (1961).