

moneys are being secured. However, it would seem that this must have been the intention of the legislature.

It is well established that when a phrase has in law acquired a fixed legal significance and is incorporated into a statute, the legal presumption is that the legislature meant to use it in this legal sense. See *Palmers v. Darby*, 64 O. S., 520, 529; *Grogan v. Garrison*, 27 O. S., 50, 63; and *Turney v. Yeoman*, 14 Ohio, 207, 218.

Now the phrase "resident freeholder", as it is used in the law, is interpreted in 34 Cyc., 1658, as,

"A term which requires that both residence and freehold be in that locality in connection with which the term is used."

The locality in connection with which the term is used in the present instance is the county. Section 2723, General Code, is in *pari materia* with Sections 2715 to 2745, General Code, inclusive, which sections appear in the Code under the heading "County Depository." Furthermore, the undertaking which the sureties sign, shows that said sureties obligate themselves to the county whose money is deposited, and that any recovery on such bond is to be in the name of the county commissioners for the use of the county. See Section 2726, General Code.

Based on the foregoing, I am of the opinion that the provision "such undertaking shall be signed by at least six resident freeholders as sureties" appearing in Section 2723, General Code, requires that the sureties signing the undertaking reside and have a freehold interest in real property in the county whose moneys are to be secured.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3132.

METHOD—FOR THE DETERMINATION OF NUMBER OF TEACHERS ON WHICH TO BASE DISTRIBUTION OF PORTION OF COUNTY EDUCATION EQUALIZATION FUND ATTRIBUTABLE TO TEACHERS—HELD PRACTICAL.

SYLLABUS:

In the absence of an abuse of discretion, it is not unlawful for a county board of education, after making the survey of its county school district as directed by section 7600, General Code, to adopt a plan for the determination of the number of teachers to be credited to the several school districts of the county district, upon which to base the distribution of that portion of the county education equalization fund attributable to teachers, by fixing that number in proportion to the number of pupils in the districts, even though, under the plan so adopted, the ratio of teachers to pupils may be different for different classes of districts.

COLUMBUS, OHIO, April 9, 1931.

Bureau of Inspection and Supervision of Public Offices, Columbus, Ohio.

GENTLEMEN:—I am in receipt of your request for my opinion with reference to the practical application of Section 7600, General Code, in the distribution of the proceeds of the 2.65 mills tax levy provided for by section 7575, General Code, to school districts outside of city and exempted village districts.

It appears that a certain county board of education, after making a survey of

its county school district, as directed by section 7600, General Code, adopted a plan for distributing that portion of the county education equalization fund which is attributable to teachers, by classifying the school districts of the county school district as to the number of teachers employed, on the basis of the ratio of pupils in attendance in the schools of each district to the number of teachers in that district, and using this ratio as the norm for fixing the number of teachers to be credited to each district in the distribution of that portion of the fund. You specifically inquire whether or not this so-called pupil-teacher ratio as thus determined for the basis for classification of districts for the purposes mentioned, is permissible under the law.

Section 7600, General Code, purports to set up a method for the distribution of the county education equalization fund by the several county boards of education. It fixes as the basis for this distribution:

- (1) The number of teachers and other educational employes therein.
- (2) The expense of transporting pupils.
- (3) The balance to be distributed according to the ratio which the aggregate days of attendance of pupils in such districts, respectively bears to the aggregate days of attendance of pupils in the entire county outside of exempted village and city school districts.

Each county board of education is directed by the terms of said section 7600, General Code, to make a survey of the county school district, on or before the first day of April of each year, to determine the number of teachers and educational employes and the number of transportation routes necessary to maintain the schools of the county school district. After the number of teachers is determined in accordance with this survey, the statute directs that:

“ * * * The annual distribution attributable to teachers and employes shall be according to the following schedule: thirty-seven and one-half per centum of the salary of each teacher or educational employe receiving a salary of not less than eight hundred dollars and a like percentage of the compensation paid to each person giving instruction in trade or technical schools, extension schools, night schools, summer schools, and other special school activities, but not to exceed nine hundred dollars for any teacher or educational employe or other such person. Provided that the amount distributed to each district shall be upon the basis of the same salary schedule as determined by the county board of education, but in no case shall the amount paid per teacher or educational employe be less than three hundred dollars or more than nine hundred dollars. * * * ”

The county board in question, after making the survey as directed by the statute, adopted the following plan of fixing the number of teachers upon which to base allotments to the several districts of that portion of the fund attributable to teachers.

“NUMBER OF TEACHERS.

Total number of elementary teachers—grades I to VIII inclusive—attributed to a village, centralized or consolidated school to be placed on the basis of one teacher to 34 pupils and a major portion thereof, as enrolled in grades I to VIII.

Two room rural schools to be allowed one teacher for each room as established the first month of school in the school year 1930-31.

One room rural schools with an enrollment of 16 or more shall be allowed one teacher for each teacher employed in 1930-31. In rural schools with an enrollment below 16 the teacher shall be counted in the distribution of the

County Educational Equalization Fund except by special resolution of the County Board of Education.

High School pupil-teacher ratio, enrollment and number of teachers shall be determined by the following schedule:

Enrollment in High School (inclusive)	Maximum number of teachers in ad- dition to the superintendent
30-70	2
71-100	3
101-140	4
141-180	5

For high schools with an enrollment in excess of 180, one teacher may be employed for each 30 pupils or fraction thereof enrolled."

It will be noted that the survey made by a county board of education as directed by section 7600, General Code, is to be made on or before the first day of April of each year. From facts disclosed by this survey the county board is to determine the number of teachers necessary to maintain the schools for the ensuing school year which will begin the following July 1st. It is upon this determination as to the number of teachers that the funds are allotted to the said districts.

The actual employment of teachers in the local schools is made by the local board of education and the determination, to a great extent, of the number that will be employed is in the discretion of the local board of education. The county board of education can not definitely determine at the time of making their survey, the number of teachers that will be employed. They simply determine the number that in their judgment will be necessary, and it is upon this basis that the distribution of the fund is made.

Necessarily, the determination of the number of teachers that will be employed in the several districts of a county school district made before April 1st of any year, for the ensuing school year to begin the following July 1st, can not be made with mathematical exactness. The method devised by the county board in question, for the determination of the number of teachers upon which to base the distribution of that portion of the county education equalization fund attributable to teachers, seems not only equitable but as well guarantees uniformity and not only complies with the statute, but is in my opinion, a very practical method of fixing the number of teachers upon which to base the distribution of this fund.

Respectfully,

GILBERT BETTMAN,
Attorney General.

3133.

APPROVAL, ARTICLES OF INCORPORATION OF THE GROWERS MUTUAL ASSOCIATION.

COLUMBUS, OHIO, April 9, 1931.

HON. CLARENCE J. BROWN, *Secretary of State, Columbus, Ohio.*

DEAR SIR:—You have submitted the proposed articles of The Growers Mutual Insurance Association for my examination and approval. I note that the same have