School Districts, Number of Trustees in.   Trustees, Number
of in School District.

Where the county superintendent of schools is aware that
the population of a certain district entitles the district to become
a district of the first class, power and authority is thereby vested
in the county superintenden to appoint the required number of
trustees for a first class district; namely, seven.

Helena, Montana, April 14, 1910.

Hon. W. E. Harmon,
     Superintendent of Public Instruction,
          Helena, Montana.

Dear Sir:

In response to your verbal inquiry, and in confirmation of my verbal
opinion, expressed to you orally this week, concerning the number of
trustees of district number one, Missoula county, being a district of the
first class, I advise you that the county superintendent of schools of Mis-
soula county has authority, and it is made her duty by section 850, revised
codes, to appoint trustees to bring the number of trustees in that district
to seven, as required by said section.

The appointment to fill vacancies is made by the county superinten-
dent, subject to confirmation by the present members of the board of
trustees, if those remaining constitute a majority of the total of the
board.

An official census taken by the city of Missoula, made about four
years ago, on file in the office of the city clerk of the city of Missoula,
is sufficient official information upon which the county superintendent
may base her action in increasing the number of trustees to seven, as
required in a district of the first class.

While the state requires the clerk of the school district to notify the
county superintendent, by certificate, showing the population in the school
district, that certification by the clerk is not, in my opinion, jurisdictional,
and if, as a matter of fact, district number one of Missoula county has
a population in excess of eight thousand, the appointment of additional

trustees to bring the number up to seven cannot successfully be ques-
tioned by any person.

                    Very truly yours,
                         ALBERT J. GALEN,
                                        Attorney General.