

SUTTON TRUST BRIEFING NOTE: THE EDUCATIONAL BACKGROUNDS OF THE UK'S TOP SOLICITORS, BARRISTERS AND JUDGES

June 2005

Executive Summary

To establish whether there has been any change in the educational characteristics of those reaching the top of the legal profession, the Sutton Trust has compared the backgrounds of leading barristers, judges and solicitors between 1988/89 and the present. The analysis includes the barristers at eight leading corporate and commercial chambers, the Law Lords and judges in the Appeal and High Courts, and the partners at three of the City's five 'magic circle' law firms.

Seven percent of the school age population in England and Wales attends private schools, a figure that has remained fairly constant for many years. Our findings show, however, that in our sample in 2004, over two thirds of the barristers at the top chambers had attended independent schools, as had three quarters of the judges, and over half the partners at the leading law firms.

In the case of the barristers and judges, there has been little change in this picture since the late 1980s: 73 percent of barristers in 1989 had attended fee-paying schools, just five percent more than today, as had 76 percent of judges, a figure that has not changed significantly. The situation is more complex in the case of the partners of the 'magic circle' firms. In 1988, 68 percent of the UK-educated partners had attended fee-paying schools, 13 percent more than in 2004, indicating that there has been a notable shift. However, when the background of partners is analysed by age, we find that in 1988 significantly fewer of the partners younger than 39 years old attended fee-paying schools – 59 percent compared with 73 percent of those who were 40 or older – but in 2004, 71 percent of the younger partners were independently educated, compared with just 51 percent of the older group. It thus appears that law firms did open up to a generation of lawyers with state school backgrounds, but access has since narrowed again.

And when we look at school type within the maintained sector, we find that in both periods those at the top of the legal profession were more likely to have attended selective state schools than comprehensives. In 1988/89, only five percent of the top barristers and solicitors had been to state comprehensives, and this figure rose to about one in ten in 2004,

In terms of Higher Education, in 2004 82 percent of UK-educated barristers had attended Oxford or Cambridge, as had 81 percent of judges and 53% of the 'magic circle' partners. In each case

these figures are lower than in the late 1980s. Looking slightly more broadly, almost all the top barristers and solicitors in our sample had been educated at one of the universities with the most highly rated law departments, and this has remained relatively static. In 1989, 98 percent of barristers had attended one of these leading institutions, compared with 93 percent in the 2004 sample; similarly, 81 percent of the 1989 magic circle partners had been to a top university compared with 79 percent in 2004.

In parallel with this analysis we have also considered Higher Education Statistics Agency (HESA) data for 2002/3 on the school backgrounds of young entrants with 26 or more A Level points who are starting undergraduate courses in law or social studies. This analysis reveals that 71 percent of these students were educated in state schools, a rise of one percent since 1998 (the first year for which data is available), but on other courses state school representation is considerably higher.

It is clear from our analysis that the school background of people at the top of the legal profession has not changed as significantly as we might have expected over the last 15 years, and that the state sector remains under-represented. There may therefore be significant scope to open up the profession to people from a wider range of educational backgrounds, so that the most able are given the opportunity to succeed.

Introduction

Since its foundation in 1997, the Sutton Trust has worked with schools, universities and the Government to extend educational opportunities to non privileged children of all ages.

One issue of particular interest to us is access to leading universities and the professions. There are many able students from non-privileged backgrounds who have a strong interest in a legal career – we receive seven applications for each place at our university summer schools in law. However, just 32 percent of barristers at leading chambers and 45 percent of partners at the city's 'magic circle' law firms were educated in the maintained sector, and there has been no marked change over the last 15 years.

The access issues begin at university level – of all the students with 26 or more A level points (equivalent to ABB) starting degrees in law or social studies, 71% were educated in the state sector. This is in line with the average for all subjects, but is much lower than the proportion studying subjects like biological sciences or maths, and this has not changed in the last 4 years. Further, the figure is short of the 83 percent of university entrants who are from the state system.

Programmes such as 'Young Graduates for Lawyers' run by Global Graduates and 'Pathways to the Professions' run by Edinburgh University, both of which the Trust funds, are designed to tackle these anomalies, but it is clear that more widespread action is needed. The legal profession should act to ensure it is accessible to the many able people from less advantaged backgrounds who aspire to work in the field.

Background and Methodology

The Sutton Trust has analysed the educational backgrounds of barristers at eight of the ten leading commercial and corporate chambersⁱ, the Law Lords and judges in the Appeal and High Courts, and the partners at three of the city's five 'magic circle' solicitors firmsⁱⁱ. We have compared the backgrounds of those holding these positions in 2004 with those who held them in 1988 (the solicitors firms) and in 1989 (the chambers and the judiciary).

The Legal 500, *Who's Who in the City*, *Whitaker's Almanac*, the website of The Department of Constitutional Affairs and the websites of barristers' chambers have been used to identify the individual lawyers holding positions relevant to this research. Biographical data from *Who's Who*, *Who's Who in The City*, *The Legal 500*, *Chambers and Partners* and, where possible, the websites of individual chambers and firms has been used to identify which schools and universities the lawyers identified attended. Further details of the sample statistics can be found in Appendix 1. The status of individual schools has been determined using the schools' websites and related internet sites, *The Daily Telegraph Schools Guide*, data from the Department for Education and Skills and information from the Independent Schools Council. A table showing the breakdown of attendance by school type can be found in Appendix 2.

In addition to this analysis, we have used HESA data to examine the background of students who recently started degrees in law or social studies and achieved 26 or more points at A Level.

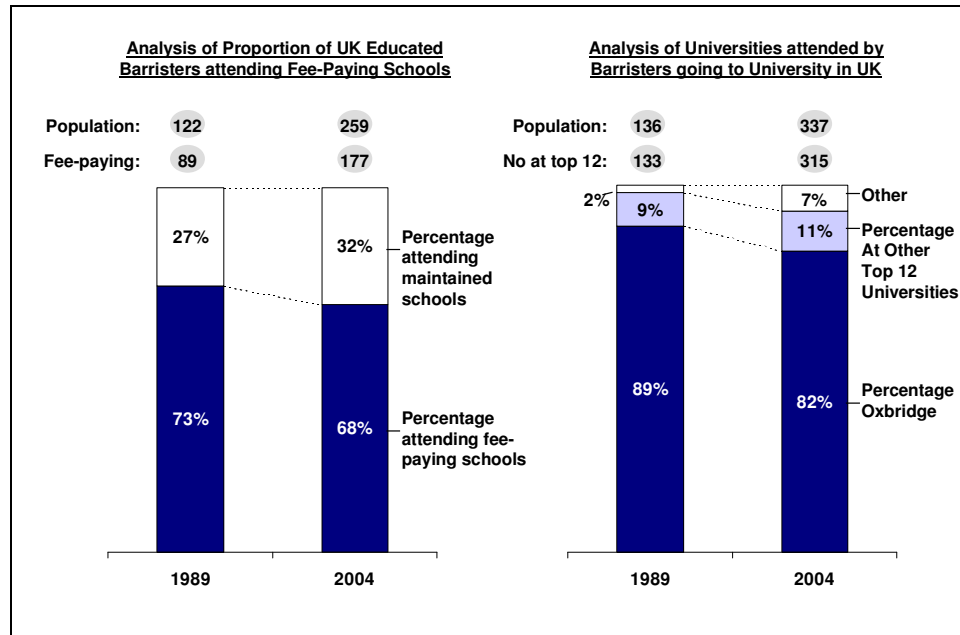
ⁱ The barristers chambers analysed are those recommended for commercial law by Chambers and Partners and The Legal 500 for which we have data. For 2004 these were 20 Essex Street, 7 King's Bench Walk, Blackstone Chambers, Brick Court Chambers, Fountain Court Chambers, One Essex Court and Quadrant Chambers (formerly 4 Essex Court). As far as possible the same group was used in 1989 however, 20 Essex Court and Blackstone Chambers were replaced by 3 Essex Court. Data was not available for two chambers – Essex Court and 3 Verulam Buildings

ⁱⁱ The solicitors firms analysed are the magic circle firms for which we have data: Allen & Overy, Slaughter and May and Clifford Chance. Data was not available for Linklaters and Freshfields Bruckhaus Deringer.

Summary of Findings

Educational Background of Barristers at Leading Commercial and Corporate Chambers

Chart 1: Analysis of Educational Backgrounds of Barristers at Leading Chambers^{iii,iv}



Our findings show that in both samples over two thirds of barristers at the top commercial chambers went to fee-paying schools and over 80 percent were educated at Oxford or Cambridge, while very few went to universities outside the top 12 – just seven percent in 2004.

This profile has changed little over the last 15 years – a fact confirmed by analysis of the educational background of barristers in different age groups. Table 1 shows that the proportion of barristers educated at fee-paying schools in both age groups is over two thirds, and has reduced only slightly in the last 15 years. The proportion of barristers attending Oxbridge is also fairly

ⁱⁱⁱ The top 12 legal universities have been identified on the basis of the highest average rankings in leagues tables for law published in The Times and The Guardian and the overall table of tables published in The Telegraph. They are Cambridge, Oxford, UCL, Nottingham, LSE, Durham, SOAS, Manchester, Warwick, King's College London, Bristol and Edinburgh.

^{iv} For the purposes of this analysis the status of a school is the status it would have been when the person entered the school at the age of 11. Direct grant schools are considered to be maintained rather than fee-paying during the period for which they were direct grant schools. However, if an individual went to one of these schools after it became fee-paying they would be considered to have attended a fee-paying school. The university is the undergraduate university.

constant in each age group – over 80 percent - indicating that, overall, there has been no marked change in the educational background of barristers since 1989.

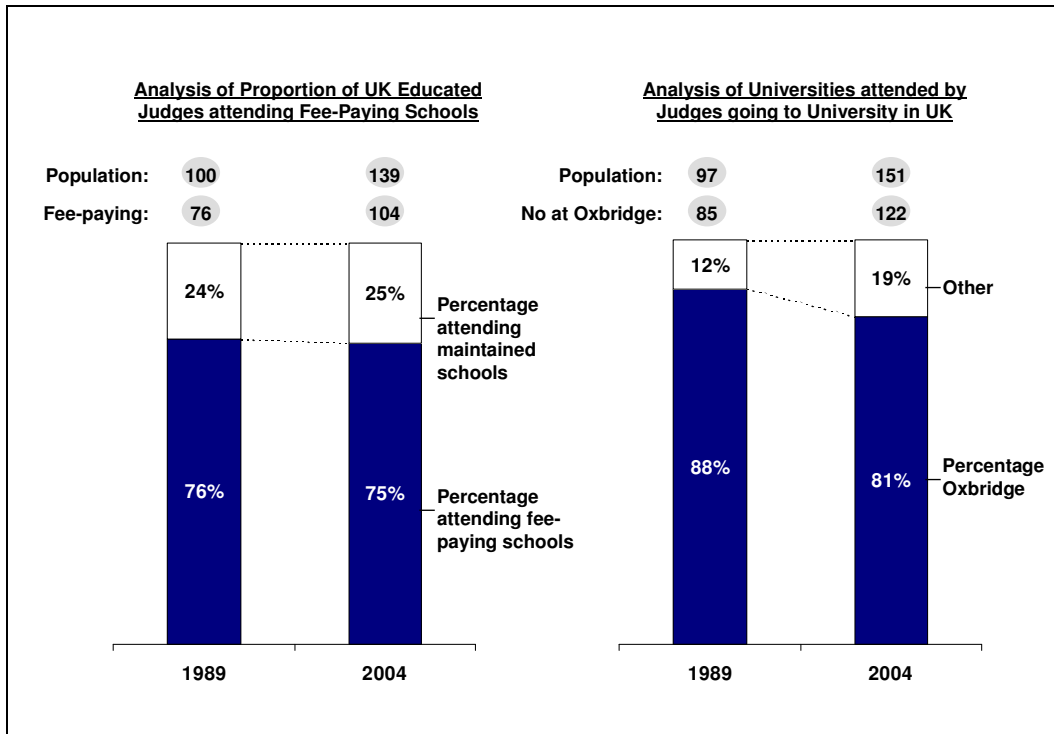
Table 1: Analysis of Educational Backgrounds of Barristers at Leading Chambers by Age

UK Educated Barristers:	1989		2004	
	Under 39	40 or over	Under 39	40 or over
Number attending fee-paying schools	43 (72%)	35 (73%)	67 (66%)	99 (69%)
Number taking first degree at Oxbridge	65 (92%)	42 (84%)	106 (82%)	147 (82%)
Number taking first degree at top 12 university	70 (99%)	48 (96%)	120 (93%)	167 (93%)

One notable development, however, is the increased representation of those barristers who attended state comprehensive schools, probably due to their dominance of the state system since the abolition of many maintained grammar schools in the mid-1970s. Of those who attended state schools in 1989, only 18 percent (or 5 percent of the total) had gone to comprehensives, with the remainder going to selective schools. In the 2004 sample, these figures had increased significantly – 32 percent of those educated in the state system, or 10 percent of the total sample, had been to comprehensive schools, although selective schools continued to account for almost 70 percent of the state share.

Educational Background of the Law Lords and Judges in the Appeal and High Courts

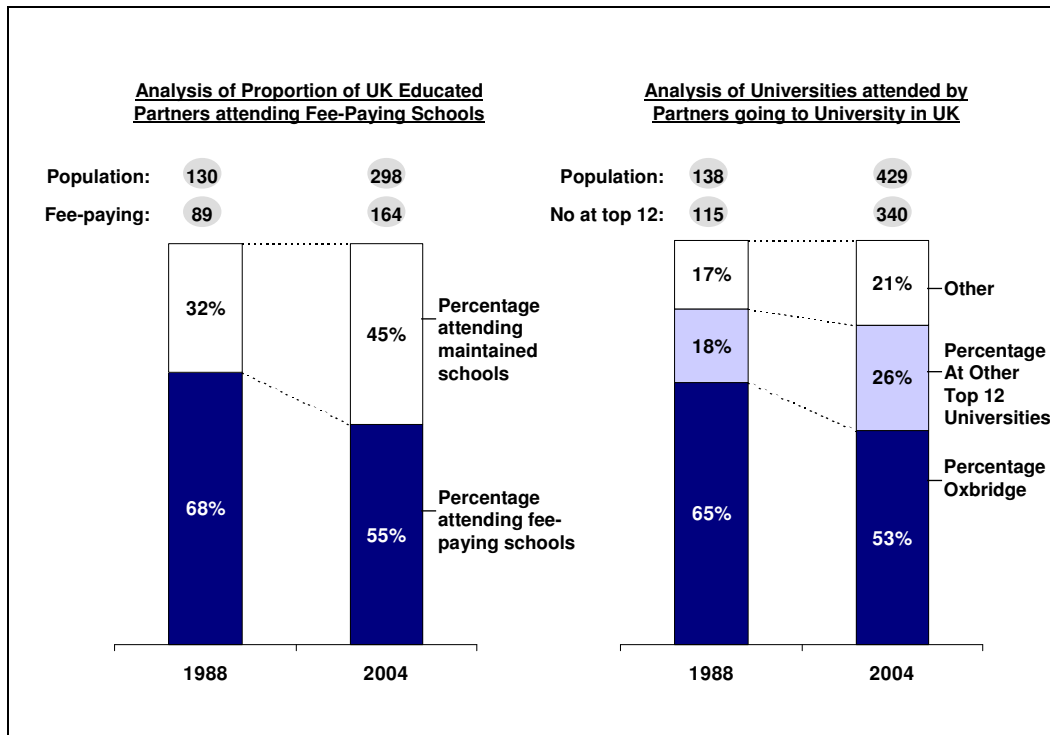
Chart 2: Analysis of Educational Backgrounds of Law Lords and Judges in the Appeal and High Courts



The judiciary is comprised mainly of men who were educated at fee-paying schools and went to Oxford or Cambridge Universities. Three quarters of the judges attended fee-paying schools – a figure that has not changed over the last fifteen years. Further analysis shows that half of the current judges went to boarding schools, 11 percent less than in 1989, when 61 percent were educated at these schools. Over 80 percent of the judges in our sample attended Oxford or Cambridge a figure that has decreased by just seven percent since 1989. It is also interesting to note that in 1989 there were just three female judges. Whilst this figure has increased since then, women continue to be significantly underrepresented – there are now 14 female judges, making up just nine percent of the total.

Educational Background of Partners at 'Magic Circle' Solicitors Firms

Chart 3: Analysis of Educational Backgrounds of Partners at Magic Circle Law Firms



Our findings indicate that access to partnership positions in the 'magic circle' law firms has broadened somewhat over the last 15 years. In 2004, 55 percent of the partners identified were independently educated – a decline of 13 percent compared with the 1989 figure. The university background of partners has also changed: in 2004 just 53 percent of the partners had taken their first degrees at Oxford or Cambridge, compared with 65 percent in 1988, and significantly more now study at one of the other leading legal universities – 26 percent in 2004 compared with 18 percent in 1988.

However, analysis of the educational background of partners in different age groups reveals a more complex story. If the law firms have really opened up to people from different school backgrounds, we would expect to find that the younger partners of 2004 are the group most likely to have been educated in the maintained sector, while the older partners of 1988 are the group most likely to have been educated at fee-paying schools. But, as table 2 shows, this is not the case.

Table 2: Analysis of Educational Backgrounds of Partners at Magic Circle Law Firms by Age

UK Educated Partners:	1988		2004	
	Under 39	40 or over	Under 39	40 or over
Number attending fee-paying schools	23 (59%)	66 (73%)	47 (71%)	106 (51%)
Number taking first degree at Oxbridge	27 (60%)	62 (67%)	49 (47%)	160 (57%)
Number taking first degree at top 12 university	38 (84%)	76 (83%)	81 (78%)	22 (81%)

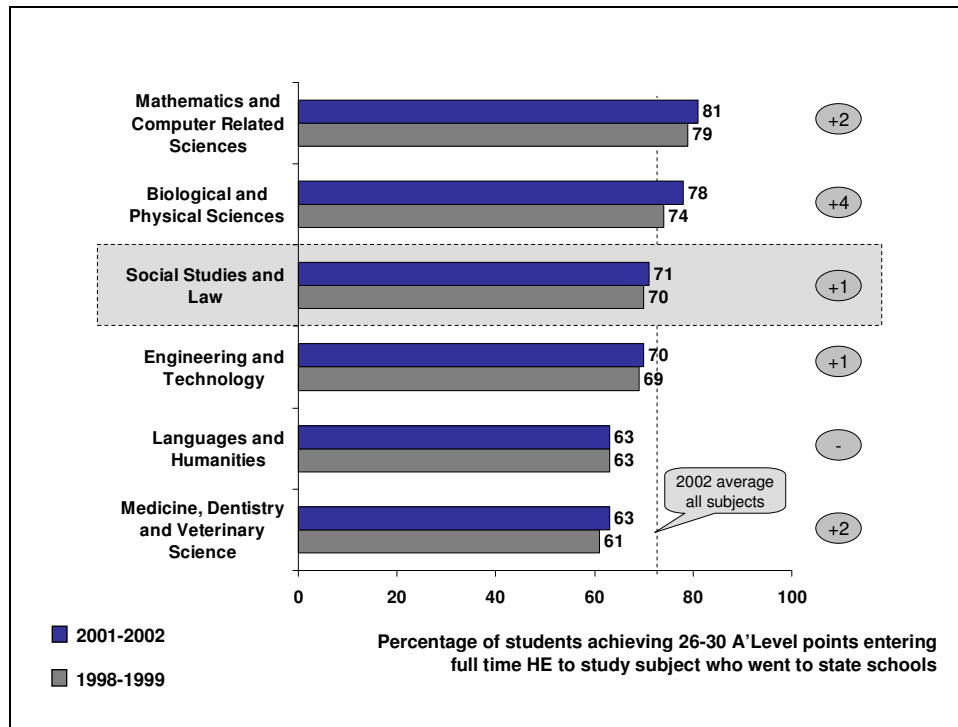
In 1988 significantly fewer of the partners younger than 39 years old attended fee-paying schools – 59 percent compared with 73 percent of those who were 40 or older. In 2004, by contrast, 71 percent of the younger partners were independently educated, compared with just 51 percent of the older age group. This indicates that in the late 1980s the firms opened up to admit a generation of solicitors from more diverse school backgrounds, who went on to become the ‘young’ partners of 1988, and may have gone on further to become the ‘old’ partners of 2004. However, since then, it seems that access has narrowed once again: today’s younger partners are almost as likely to be educated in the fee-paying sector as the older partners of the 1988 sample.

In terms of the type of state school the partners are likely to have attended, 17 percent of those educated in the maintained sector (or five percent of the total) had been to comprehensive schools in the 1988 sample, but this rose to 24 percent (or ten percent of the total) in the 2004 sample. So although the overall numbers of partners educated in comprehensives has risen to similar levels as the barristers (around ten percent), those from selective maintained schools dominate to a greater extent (76% of state educated solicitors, compared to 68% of state educated barristers).

Our findings do show, however, that the law firms are now accessible to people from a more varied range of universities. Only 47% of the younger partners of 2004 were educated at Oxbridge, compared to 67% of the older partners of 1988.

Educational Background of Students Studying Law

Chart 4: Analysis of School Backgrounds of Young Entrants With 26+ Points At A Level Starting University to Study Law or Social Studies Related Subjects



In 2001-2002, 71 percent of students with 26 or more A level points entering university to study law or social studies were educated in state schools, and this proportion has increased by just one percent since 1998, Whilst the figures for law and social sciences are in line with the average for all subjects, some subject areas have a higher proportion of students from the maintained sector – in maths and computer sciences, for instance, the figure is 81 percent – indicating there may be scope for improving access to law degrees, particularly as the maintained sector accounts for 83 percent of all university entrants.

It is important to bear in mind the potential impact of the grouping of law with social studies (which is necessary because of the way the Higher Education Statistics Authority statistics are compiled). It is conceivable that many of the state school students included in this category take social studies courses rather than law courses (and are perhaps more inclined to do so than their independently educated peers), which means the actual number of state educated students entering university to take legal degrees could be significantly lower than these figures suggest.

It is also worth noting that we do not know the breakdown of these students by university type. It may be that independent schools are getting a greater share of their pupils into the most prestigious legal universities, and this is reflected in the numbers recruited to the top firms and chambers, which – perhaps understandably - focus their efforts on these widely-acknowledged centres of excellence. This trend is borne out by our analysis of overall admissions trends at 13 of the leading universities, which shows that many well-qualified state school pupils are not entering these institutions for a number of reasons^v.

^v See *The Missing 3,000*, Sutton Trust, August 2004

Conclusion

Our findings show that the top of the legal profession comprises mainly of those who have been independently educated, and this situation has not changed greatly over the last 15 years. Significant progress may therefore be possible towards opening up the profession early on, both by encouraging more able students from maintained schools – particularly comprehensives - to study law at the leading universities, and by widening access to barristers' chambers and top firms of solicitors. This will not only assist the very best to succeed as lawyers, but the judiciary will become more representative of the people it serves.

All those involved in the legal profession should play an active part in working towards these aims and make it a priority to build further on the work already being undertaken.

Moving Forward

Since completing this work, we have discussed our research findings with the Commission for Judicial Appointments (CJA), who said they were of considerable interest. Their own work on improving diversity in judicial appointments has concentrated on the opportunities for women and ethnic minorities. In particular, they believe there may be evidence of early marginalisation of ethnic minority lawyers, which operates in ways similar to the apparent marginalisation that diminishes the prospects of those not from independent schools and Oxbridge.

We hope to move on, in the light of the statistical findings of this research, to work which may identify the factors which result in these imbalances. These may turn out to be similar to those which work to the detriment of those from an ethnic minority background, and may also have a wider relevance which will be of interest to others, particularly the CJA and the new Judicial Appointments Commission, which will start work in April 2006.

We also intend to compare the top of the legal profession with the top of the medical profession, by conducting a similar survey of educational backgrounds in the near future.

Appendix 1 – Sample Statistics

	Barristers		Judges		Solicitors	
	1989	2004	1989	2004	1988	2004
Number identified	177	371	123	162	165	522
Number for whom school data is available	132	289	100	139	137	353
Number of these attending schools in the UK	122	259	100	139	130	298
Number for whom university data is available	143	360	97	151	142	481
Number of these attending universities in the UK	136	337	97	151	138	429

Appendix 2 - Breakdown of School Type

Barristers	1989			2004		
	n	% of total	% of state	n	% of total	% of state
State comprehensive	6	4.92%	18.18%	26	10.04%	31.71%
State selective	27	22.13%	81.82%	56	21.62%	68.29%
Total state	33	27.05%	100%	82	31.66%	100%
Independent	89	72.95%		177	68.34%	
Totals	122			259		
Solicitors	1988			2004		
	n	% of total	% of state	n	% of total	% of state
State comprehensive	7	5.38%	17.07%	32	10.74%	23.88%
State selective	34	26.15%	82.93%	102	34.23%	76.12%
Total state	41	31.54%	100%	134	44.97%	100%
Independent	89	68.46%		164	55.03%	
Totals	130			298		