

Appendix K

THE BARTRICK CASE

At the 1986 election James Bartrick was elected as a Liberal councillor for Rayners Lane. However, at the time of his nomination and election he had not attained the age of 21 years. This Appendix reproduces two legal documents:

1. *Notice of Motion*, dated 27 November 1986, and
2. *Affidavit of Jennifer Mary Nutt*, dated 26 November 1986.

Upon receipt of these documents and related exhibits (not reproduced) Bartrick decided to resign from the Council. After being adopted by the local Liberal Association he contested the subsequent by-election and was re-elected.

During the 1986 Borough Elections in London a second Liberal Councillor was elected despite being under-age at time of nomination. Belinda Knowles was returned for the Holy Trinity ward in Tower Hamlets but resigned shortly afterwards. She was re-elected in a by-election held on 3 July 1986.

Notice of Motion

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

DIVISIONAL COURT

IN THE MATTER OF SECTION 92 OF THE LOCAL GOVERNMENT ACT 1972

and

IN THE MATTER OF AN APPLICATION BY JENNIFER M NUTT

NOTICE OF MOTION

TAKE NOTICE that the High Court of Justice, Queen's Bench Division at the Royal Courts of Justice, Strand, London, WC2A 2LL will be moved before the Honourable Mr. Justice on the day of 1986 at the sitting of the Court or so soon thereafter as Counsel may be heard, by Counsel on behalf of Jennifer Mary Nutt of 71 The Avenue, Pinner, Middlesex, HA5 5BW, a Local Government Elector for the London Borough of Harrow, for the following relief namely:-

1. A declaration that James Edward Bartrick of 19 Oxford Road, Harrow, Middlesex, HA2 4JH has acted as a member of the Council of the London Borough of Harrow as Councillor for the Rayners Lane Ward of the said Borough while disqualified for so acting.
2. A declaration that the said office of Councillor of the said Borough is vacant.
3. An injunction restraining the said James Edward Bartrick from acting or claiming to be entitled to act as Councillor for the said Ward of the said Borough.
4. An Order that the said James Edward Bartrick to forfeit to Her Majesty such sums as the Court shall think fit.
5. Such further or other Order or relief as this Honourable Court doth think fit.
6. That the costs of and occasioned by this Motion and these proceedings shall be paid by the said Bartrick on an indemnity basis.

AND FURTHER TAKE NOTICE that the grounds of this application are:-

- i. The said James Edward Bartrick was born on the 30th day of May 1965.
- ii. The election of London Borough Councillors for the said London Borough of Harrow was held on the 8th day of May 1986.

- iii. The said James Edward Bartrick was nominated as a candidate for the said election by a nomination paper lodged with the Returning Officer for the said Borough on the 2nd day of April 1986.
- iv. The said nomination paper was accompanied by a Candidate's Consent to Nomination Form signed by the said James Edward Bartrick on the 25th March 1986 declaring, *inter alia*, with reference to the day of his nomination as a candidate, that he was qualified, and if there was a poll would be qualified on the day of the said election, and that he had attained the age of 21 years.
- v. By a Declaration of Result of Poll dated the 9th May 1986, the Returning Officer of the said Borough declared that the said James Edward Bartrick was duly elected as a Councillor for the said Ward.
- vi. Both at the date of his said nomination as a candidate at the said election, namely the 2nd day of April 1986 and at the date of the said election, namely the 8th day of May 1986, the said James Edward Bartrick had not attained the age of 21 years.
- vii. In the premises:-
 - (a) The said James Edward Bartrick was not qualified to be elected and to be a member of the Council of the said Borough, as required by the provisions of Section 79 of the Local Government Act 1972;
 - (b) The said James Edward Bartrick is disqualified for acting or claiming to be entitled to act as a member of the said Council of the Borough as Councillor for the said Ward.
- viii. In spite of the foregoing the said Bartrick has acted and continues to act and to claim to be entitled to act as aforesaid.

DATED this 27th day of November 1986

Affidavit of Jennifer Mary Nutt

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

DIVISIONAL COURT

IN THE MATTER OF SECTION 92 OF THE LOCAL GOVERNMENT ACT 1972

and

IN THE MATTER OF AN APPLICATION BY JENNIFER M NUTT

AFFIDAVIT OF JENNIFER MARY NUTT

I, JENNIFER MARY NUTT, of 71 The Avenue, Pinner, Middlesex, HA5 5BW, Teacher, MAKE OATH and say as follows:-

1. I am the above named applicant. I live in and am on the electoral roll as a Local Government Elector in the Rayners Lane Ward of the London Borough of Harrow.
2. The election of London Borough Councillors for the London Borough of Harrow was held on the 8th May 1986. The Respondent to this application, one James Edward Bartrick, was a Liberal candidate seeking election as a Councillor for the Rayners Lane Ward of the said Borough. Following the election, the said James Edward Bartrick was declared duly elected as Councillor for the said Ward. There is now produced and shown to me marked "JMN1" a bundle containing certified copies of the Candidate's Consent to Nomination Form and the nomination paper in respect of the said James Edward Bartrick, as lodged with the Returning Officer, together with a Declaration of Result of Poll in respect of Rayners Lane Ward. These certified copy documents were sent under cover of a letter from the Director of Law and Administration of the London Borough of Harrow to my Solicitors, Messrs. Penningtons Ward Bowie, dated 21st November 1986.
3. There is now produced and shown to me marked "JMN2" a certified copy of the Birth Certificate of the said James Edward Bartrick, which indicates that he was born on the 30th day of May 1965.
4. It can be seen that the said James Edward Bartrick's nomination paper was lodged with the Returning Officer on the 2nd day of April 1986, and that his Consent to Nomination form was signed and dated the 25th day of March 1986. On that Consent to Nomination form, the said James Edward Bartrick

declared, *inter alia*, with reference to the day of his nomination as a candidate that he was qualified, and if there was a poll would be qualified on the day of election, to be so elected, and that he had attained the age of 21 years. Having regard to the contents of the Birth Certificate exhibited in "JMN2 " it is clear that both at the 2nd April 1986 when nominated as a candidate, and at the date of the said election on the 8th May 1986, the said James Edward Bartrick had not in fact attained the age of 21 years. Accordingly, it is clear that the declaration signed by the said Bartrick on his Candidate's Consent to Nomination form was untrue and false.

5. I am advised by my Solicitors and verily believe that, in the circumstances set out above, the said James Edward Bartrick was not qualified to be elected and to be a member of the Council of the London Borough of Harrow as required by Section 79 of the Local Government Act 1972.
6. In spite of the facts and matters set out above, the said James Edward Bartrick has acted and continued to act as a Councillor for the Rayners Lane Ward of the said Borough. There is now produced and shown to me marked "JMN3" a copy of a letter to my Solicitors from the Director of Law and Administration of the London Borough of Harrow dated the 24th November 1986 enclosing details of the said Bartrick's attendances at various meetings of the Council held since May 1986. It can be seen from the schedule of attendances, that the said Bartrick first attended a meeting of the Road Safety Committee of the Council on the 2nd June, as a substitute for another Councillor, and has regularly attended meetings of the Council and the various committees of the Council, purporting to act as a Councillor. The most recent attendance recorded was on the 6th November 1986.
7. There is now produced and shown to me marked "JMN4" a bundle containing photocopies of recent press reports in relation to this matter, published in the local newspapers. I would respectfully submit that the indications given by these reports are that the said Bartrick intends to continue to act and to claim to be entitled to act as a Councillor for the said Ward of the said Borough in the future.
8. Accordingly, I respectfully ask that this Honourable Court do grant the relief sought in the originating Notice of Motion herein.

SWORN by the said JENNIFER MARY NUTT
at 48 Suffolk Road, Harrow, Middlesex this 26th day of November 1986.