

The Australian Women's Register

Entry type: Person

Entry ID: AWE5726

Penfold, Hilary

Occupation Judge, Lawyer, Parliamentary Counsel, Public servant, Queen's Counsel

Summary

The Hon. Justice Hilary Penfold has enjoyed a distinguished career in the public service and as a member of the judiciary. After becoming the first woman in Australia to hold the position of First Parliamentary Counsel, she achieved the further distinction of becoming the first woman to be appointed as Commonwealth Queen's Counsel. She later became the first resident woman judge of the Supreme Court of the Australian Capital Territory. Penfold's contribution to the public service, to drafting and to the development of law in Australia has been immense.

Hilary Penfold was interviewed by Kim Rubenstein for the Trailblazing Women and the Law Oral History Project. For details of the interview see the National Library of Australia [CATALOGUE RECORD](#).

Details

The Hon. Justice Hilary Penfold was born in 1953 in Dunedin, New Zealand; she was the first of seven children. When she was three, the Penfold family immigrated to Australia and settled in Wagga Wagga in New South Wales. In 1963 Penfold's father, John, a lecturer in adult education with the University of Sydney, again moved the family – this time to Southampton in England for a 12-month sabbatical. Upon returning to Australia, the Penfolds settled in Sydney and Hilary, having won a scholarship to attend, entered Ascham School in the eastern suburb of Edgecliff.

After leaving school, Hilary Penfold undertook a Bachelor of Arts and a Bachelor of Laws (from which she graduated with first-class honours) at the Australian National University. Residing at Garran Hall during her studies, she was involved in a range of extra-curricular activities concerned with the University's Department of Philosophy, the theatre club (of which she was secretary), the Federal Law Review (of which she was a member of the editorial board), and as a founding member of Radio ANU [Trove].

In 1977 Penfold began working at the Commonwealth Office of Parliamentary Counsel (OPC): she would remain there for 20 years. Early projects included taxation legislation, stevedoring industry work, and companies and securities work involving State/Commonwealth negotiations. She was the only woman drafter at the OPC for some time and consequently became the first woman to progress to each senior level of the organisation.

In 1984, when she was just 30 years old, Penfold was appointed to head the Attorney-General's Department's Special Projects Division for nine months. (The Canberra Times announced that she was the youngest public servant in the new Senior Executive Service [Canberra Times]). Two years later, Penfold became Second Parliamentary Counsel.

In 1993, Penfold became the first woman to be appointed First Parliamentary Counsel; she would hold the position for a decade. By 1993 she had three children. She is credited as 'leading by example' when it came to balancing work and home life, and initiating such family-friendly policies as reasonable hours and part-time work options for male as well as female employees.

Penfold's contributions to the OPC also included managing large and complex drafting projects including: the Tampa legislation, workplace relations reforms; as well as the constitutional amendments proposed to create an Australian republic in 1999 [NLA], all of which she personally drafted in whole or in part. GST legislation and the original and revised native title legislation were also drafted during her time as First Parliamentary Counsel. Penfold also promoted innovations in drafting – plain language and technology advancements and an exchange of ideas between drafting offices in Australia and overseas [NLA].

Penfold was involved in the work of the Parliamentary Counsel's Committee (a committee of chief parliamentary counsel of Australia and New Zealand), and was President of the Commonwealth Association of Legislative Counsel from 1999 until 2003 (an association of legislative counsel from across the British Commonwealth) [ANU]. She was also a member of the Board of Taxation from 2000 until 2004 [ANU].

In recognition of her significant contribution to legislative drafting for the Commonwealth Government, Penfold was awarded a Public Service Medal in 2000.

The following year, Penfold was appointed as a Commonwealth Queen's Counsel; she was the first woman to hold such an appointment [ANU]. In 2003, she chaired the Migration Litigation Review; commissioned by the then Attorney-General, the Hon. Philip Ruddock MP, the Review examined the increasingly large numbers of migration cases before the High Court, Federal Court and Federal Magistrates Court, and the very low success rate of applicants, and made recommendations for streamlining the appeal processes.

In 2004 Penfold became Secretary of the newly-created Department of Parliamentary Services. At Parliament House she initiated an historic trial to determine how much water could be saved by turning down the building's air-conditioning and oversaw the introduction of child care facilities in Parliament House [Peter Martin, NLA].

Penfold broke new ground again when, in 2007, she became the first female resident judge of the Australian Capital Territory Supreme Court.

In 2011, in further evidence of Penfold's administrative expertise and the respect it has garnered, the Supreme Court changed aspects of its case management and listing practices with a view to reducing the time taken to finalise matters lodged in or committed to the Court, based upon her recommendation [AustLII]. There was a significant drop in waiting times for trials within the first year after the new system was implemented.

Penfold is the Patron of the Australian Capital Territory Women Lawyers Association; Member of the Governing Council and Executive Committee of the Judicial Conference of Australia; and Member of the Advisory Board, Federal Law Review. She is a past member of the Rhodes Scholarship Territories Selection Committee.

Hilary Penfold's contributions to the public service, to drafting and to the law have been considerable and inspirational.

Published resources

Site Exhibition

Australian Women Lawyers as Active Citizens, Trailblazing Women Lawyers Project Team, 2016,
<http://www.womenaustralia.info/lawyers>

Archival resources

National Library of Australia, Oral History and Folklore Collection

[Hilary Penfold interviewed by Kim Rubenstein in the Trailblazing women and the law oral history project](#)

Author Details

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