

**Order of Australia Association ACT Branch  
Australia Day Address: ‘Australia Day: why bother?’**

**Presented by Chief Justice Terence Higgins, ACT Supreme Court  
26 January 2008<sup>1</sup>**

Good morning ladies and gentlemen. It is a privilege to be asked to address you today as part of the Territory Branch of the Order of Australia Association’s Australia Day celebrations. Today marks 190 years since Governor Macquarie held the first official Australia Day celebration. It seems that the enthusiasm of Australians to hold a nationwide BBQ has not waned since then. This begs the question – which is coincidentally the topic of this address – of the relevancy of Australia Day past and present; that is, why Australians have bothered to celebrate Australia Day and what it means in 2008.

I wish to begin by acknowledging that we are gathered on the traditional land of the Ngunnawal People who for centuries nurtured this land. One cannot discuss Australia Day without acknowledging the devastation and dispossession of Indigenous Australians by the occasion of white settlement that commenced on this day in 1788.

A cursory examination of the history of celebrations on Australia Day illustrates that it has been variously known as Foundation Day, Anniversary Day, a Day of Mourning, Invasion Day and Survival Day. Each of these names for celebrations and alternative celebrations on January 26 hold a different significance, and I will endeavour to briefly

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highlight each to show the evolution of Australia Day, its contested nature and its continuing relevance today.

The first official celebration of what is now known as Australia Day occurred on January 26, 1818. However, historian Manning Clark cites January 26, 1808 as the first recorded celebration. This celebration to mark the ‘anniversary of the foundation of the colony’ involved and, I hasten to add, continues to involve a good deal of ‘drinking and merriment’<sup>2</sup>. As an aside, January 26 1808 is infamous for another reason – it was the date that Governor William Bligh was arrested in the Rum Rebellion.

Nine years later, on 1 February 1817, *The Sydney Gazette* records that Mr Isaac Nicholas hosted a “dinner party...for the purpose of celebrating the Anniversary of the Institution of this Colony under Governor Phillip”<sup>3</sup>. The host of this “Anniversary Day” celebration, Mr Isaac Nicholas, had been sentenced to seven years transportation for theft in July 1790 and arrived in Australia in October 1791.<sup>4</sup> He had, during the Rum Rebellion, sided with the insurrectionaries<sup>5</sup>. By 1817 he was a free man and well-regarded by those in power. Indeed, Governor Macquarie thought him ‘a most zealous, active and useful man’.<sup>6</sup>

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<sup>2</sup> Australia Day Committee (Victoria), *History of Australia Day: 1938-1988*, [www.australiaday.vic.gov.au/PDF/HISTORY\\_OF\\_AUSTRALIA\\_DAY.pdf](http://www.australiaday.vic.gov.au/PDF/HISTORY_OF_AUSTRALIA_DAY.pdf)

<sup>3</sup> *The Sydney Gazette*, 1 February 1817.

<sup>4</sup> McMartin, Arthur 'Nichols, Isaac (1770 - 1819)', *Australian Dictionary of Biography*, Volume 2, [Melbourne University Press](http://Melbourne University Press), 1967, at 283. Available online at: [www.adb.online.anu.edu.au/biogs/A020250b.htm](http://www.adb.online.anu.edu.au/biogs/A020250b.htm)

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

In 1817 official celebrations at Sydney's Government House centred around honouring the birthdays of the monarch, King George III and his family. Those who gathered at Isaac Nicolas' dinner party – reported in *The Sydney Gazette* to be “40 in number”<sup>7</sup> - were free men doing considerably better in the colony than they had in their homelands, and therefore had reason to celebrate “Anniversary Day”. The significance of Isaac Nicholas' dinner party is three-fold. It demonstrates that the celebrations began, as Lyndon Rose highlights, and I quote, “as an emancipist occasion”.<sup>8</sup> Further, and I again quote Lyndon Rose, “It was the first occasion that such a celebration was held to commemorate a national day, as such, and at Government House, Macquarie took note”.<sup>9</sup>

The following year Governor Macquarie ordered that January 26 be officially celebrated as Anniversary Day. This first official celebration in 1818 is reported in *The Sydney Gazette* as involving, *inter alia*, a public military review in Hyde Park and a 30-gun salute to mark the 30<sup>th</sup> anniversary of the First Fleet's landing in Port Jackson.

In the years following, January 26 was celebrated as “Foundation Day” and sporting events became a popular feature of the celebrations<sup>10</sup>. In the 1820s the sport of choice for celebrations was horseracing, overtaken in popularity in the 1830s by regattas<sup>11</sup>. The inaugural Anniversary Day Regatta was held in 1836 on Sydney Harbour and has been

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<sup>7</sup> *The Sydney Gazette*, above n3.

<sup>8</sup> Rose, Lyndon ‘In Praise of an Emancipist Dinner: The First Australia Day Celebration’ (1987) 6(4) *Heritage Australia* 27 at 28.

<sup>9</sup> *Ibid.*

<sup>10</sup> National Australia Day Council, *History of Australia Day* [www.australiaday.gov.au/pages/page19.asp](http://www.australiaday.gov.au/pages/page19.asp)

<sup>11</sup> *Ibid.*

held annually since. This regatta, again to be a feature of festivities on Sydney Harbour this year, holds the title of the world's "oldest continuous regatta"<sup>12</sup>.

It was not until 1838, the fiftieth anniversary of white settlement, that Foundation Day became a public holiday. The significance of the fiftieth anniversary is that the celebrations moved from being largely private festivities to being celebrations for the public in general, 'a day for everyone'. This public celebration featured firecracker displays and large crowds congregating on harbour foreshores to enjoy the festivities. After 170 years it seems that you can't put an end to a good thing.

The centenary of the arrival of the First Fleet was celebrated with separate festivities in each colony and the proclamation of a public holiday in all colonial capitals save Adelaide.<sup>13</sup> The centenary festivities were on a large scale, and involved parades, fireworks, the unveiling of a statute in Queen Victoria's honour and of course, the Sydney Harbour Regatta<sup>14</sup>.

Moving forward another 50 years, the sesquicentenary celebrations in 1938 were enthusiastically held and received throughout Australia. It was on this day that the first Aboriginal civil rights gathering, a "Day of Mourning and Protest", was held at Australia House in Sydney<sup>15</sup>. The manifesto to the 'Day of Mourning' sought full citizenship, land

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<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Barani, *Indigenous History of Sydney City: Significant Aboriginal Events in Sydney* <http://www.cityofsydney.nsw.gov.au/barani/themes/theme6.htm> ; Australia Day Council of New South Wales, *Indigenous Australians* [www.australiaday.com.au/studentresources/indigenous.aspx](http://www.australiaday.com.au/studentresources/indigenous.aspx)

rights and equality for Aboriginal Australians<sup>16</sup>. This protest came some 29 years before Aboriginal Australians were counted in the Australian population as a result of the Referendum of 1967, and 54 years before native title was recognised in *Mabo (No 2)*. Some 1000 Aboriginal men and women attended the gathering, which signified the movement, at the beginning of the last century, to publicly recognising January 26 as not only the day the First Fleet landed, but the day that resulted in the dispossession of Australian Indigenous peoples of their land.

As that protest took place, so too did a re-enactment of the landing of the First Fleet in Sydney. Sydney-based Aboriginal organisations refused to participate in the re-enactment so, in their stead, Aboriginal people from Western communities were brought in for the occasion and housed in Redfern Police barracks<sup>17</sup>.

In 1946 agreement was finally reached between the Commonwealth and State and Territory governments to call January 26 ‘Australia Day’ and to observe it as a national day<sup>18</sup>.

The years immediately following WWII saw an influx of non-British immigration to Australia and the beginnings of multicultural Australia. On Australia Day in 1949 the legal concept of Australian citizenship was created via the enactment of the *Nationality and Citizenship Act 1948*. As a consequence, Australia Day took on an additional role on

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<sup>16</sup> Reconciliation Victoria, *Survival Day – Invasion Day – Australia Day – Jan 26* [www.reconciliationvic.org.au/index.cgi?tid=346](http://www.reconciliationvic.org.au/index.cgi?tid=346)

<sup>17</sup> Barani, above n 15.

<sup>18</sup> Australia Day Committee (Victoria), above n 2.

the Australian calendar, “one that celebrated new citizenship with naturalisation ceremonies (now citizenship ceremonies). ...Citizenship ceremonies are still an integral part of Australia Day celebrations around the nation.”<sup>19</sup>

In 1960 the Australian of the Year Awards were introduced. The inaugural Australian of the year was Sir MacFarlane Burnet, who also became a Nobel Prize laureate that year in Medicine. Eight years later, in 1968, the Australian of the Year Award was awarded to an Aboriginal Australian. The recipient was Lionel Rose, a sensational boxer who won the world championship bantamweight title one month to the day after being awarded the title of Australian of the Year.

The inclusion of Australian of the Year Awards in Australia Day festivities created a new, and still popular, tradition of Australia Day recognising excellence and outstanding contributions by Australians to the Australian community and the nation. Indeed more awards for excellence have been added to that of the Australian of the Year Award: in 1979 Young Australian of the Year was introduced, in 1999 Senior Australian of the Year, and in 2003 Australia's Local Hero.

The bicentennial celebrations held on Australia Day 1988 were viewed by the world and included 25,000 events in Sydney alone, and the re-enactment of the First Fleet's voyage from Portsmouth to Sydney Harbour. However, the NSW Government strongly rejected the suggestion of a re-enactment of the landing. A march for 'Freedom, Justice and Hope' and a rally in Hyde Park was organised by the Aboriginal community and attended

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<sup>19</sup> *ibid.*

by thousands of Aboriginal People and supporters from across the nation<sup>20</sup>. The bicentenary march gave rise to alternative celebrations on January 26 to mark the survival of Aboriginal history and culture<sup>21</sup>. The first Survival Day concert was held in 1992 at La Perouse and it has been held annually since – although it relocated to Waverly Oval near Bondi Beach in 1998.<sup>22</sup>

Australia Day celebrations in the 21<sup>st</sup> Century continue to feature a much-appreciated public holiday, ‘drinking and merriment’, citizenship ceremonies and civic celebrations, fireworks displays, air force aerial displays and public concerts – such as the Australia Day Live Concert at Parliament House (held last night), and the Survival Day concert. There is also a litany of sporting events and pleasures for the armchair sportsman – including the 4<sup>th</sup> Test against India, and the Australian Open women’s final.

For those of you who haven’t yet planned out the rest of your day, you might want to investigate the checklist put out by the National Australia Day Council<sup>23</sup>, albeit tongue-in-cheek, of things to do this Australia Day:

- Overcook a variety of meats on semi-hygienic BBQs;
- Listen to the Choirboys (*Although depending on your level of fitness it may be safer to walk, rather than run to paradise*);
- Make a disparaging remark about English Cricket;

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<sup>20</sup> Barani, above n 15.

<sup>21</sup> Australia Day Council of New South Wales, above n 15.

<sup>22</sup> Barani, above n 15.

<sup>23</sup> *The Bulletin*, 22 January 2008 at 27.

- Do a reverse horsey in a blow up pool (*What that means I'm not sure but it sounds painful*);
- Fill your togs with sand;
- Exercise your democratic right to give dead-arms; and
- Go to a cultural event, like the fireworks.

Without the fireworks, the checklist does read like a normal Australian summer day. This is not to downplay the cultural significance of public fireworks, being, as they are a 170-year-old Australia Day tradition. It is merely to say that for the vast majority of Australians, Australia Day is about enjoying with the community the tasks they typically enjoy privately in their backyards, or on our beaches, with family and close friends. Is that enough to justify celebrations on Australia Day?

Dr Lowitja O'Donoghue eloquently expressed the importance of celebrating Australia Day in her Australia Day Address in 2000. And I quote:

Celebrations of special days are important. They symbolise for us the things that unite us as human beings. They are markers that help to define who we are and what we hold dear. They are part of the glue that binds a society together. It is therefore very important that a National day of celebration be inclusive of all its citizens. But we must also be very clear about what it is we as a nation are celebrating.<sup>24</sup>

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<sup>24</sup> O'Donoghue, Dr Lowitja '2000 Australia Day Address' (Speech delivered in Sydney, 24 January 2000), available at <http://www.australiaday.com.au/whatson/australiadayaddress2.aspx?AddressID=10>



On Australia Day 2008 we still celebrate our history, but in the context of a multicultural Australia. We also continue to celebrate the achievements of contemporary Australians through the award of Australia Day Honours. We continue to welcome new Australians in citizenship ceremonies. Perhaps one day we will also celebrate the overcoming of historic, social and ongoing systemic hardship suffered by Aboriginal Australia in the spirit of genuine reconciliation.

We celebrate in numbers across the country with festivities that are open for all to enjoy because we are proud of who we are, fortunate to be a part of this nation, and hopeful for the future – for what we individually and as a nation can achieve. I, for one, am proud to do so, and am honoured that you have invited me to speak to you this morning. Have a bonza Australia Day.

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