



HIGH COURT OF AUSTRALIA

Public Information Officer

10 December 2003

BARRY THOMAS BLUNDEN v COMMONWEALTH OF AUSTRALIA

The High Court of Australia today unanimously held that an action arising from the Voyager disaster was subject to a limitation regime, in this case the provisions of the ACT Limitation Act.

On the night of 10 February 1964, aircraft carrier HMAS Melbourne and the destroyer HMAS Voyager collided during exercises about 30km off Jervis Bay. The Voyager sank, with 82 lives lost. Mr Blunden was serving as an able seaman on the Melbourne. In 1998 he instituted proceedings in the ACT Supreme Court – exercising federal jurisdiction – against the Commonwealth for negligence, seeking damages for injuries including post-traumatic stress disorder, severe depression and alcohol abuse.

In March 2003 the part of his action concerning time limits was removed into the High Court for identification of the applicable statute of limitation, if any. The Commonwealth claimed Mr Blunden's action was barred, extinguished or not maintainable. Mr Blunden argued that the common law, without modification by the ACT Limitation Act, applied to his case.

The High Court held that the ACT Limitation Act applied. The Act provides for a six-year limitation period, but section 36 empowers the Supreme Court to order extensions. The Supreme Court initially declined to grant an extension. However, an appeal to the Full Court of the Federal Court from that refusal was allowed, although that court is yet to finalise orders flowing from Mr Blunden's successful appeal. In the meantime the High Court has established that the ACT Limitation Act is applicable to his action.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*