

Train and track authorities prosecuted over fatal derailment in Australia

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Charges have been laid against New South Wales (NSW) Trains and the Australian Rail and Track Corporation (ARTC) over the 2020 derailment of a Sydney to Melbourne train that caused the deaths of the train's driver, John Kennedy, 54, and his track pilot Sam Meintanis, 49, and serious injury to 12 of the 155 passengers and 5 other crew.

On October 17, the Office of National Rail Safety Regulator (ONRSR) told the Melbourne Magistrate's Court it was prosecuting NSW Trains, the train operator, and the ARTC, the track owner. The charges include contravening the Rail Safety National Law by failing to carry out safe systems, exposing individuals to risk of death or injury.

The high-speed derailment of the XPT occurred on February 20, 2020, 45 kilometres north of Melbourne. A northern turnout switch caused the train to leave the track, concertina, tip the leading power car on its side and derail the next five carriages.

Police described the scene as horrific, telling reporters it was only luck most of the train's 155 passengers and crew had not been killed or seriously injured.

The ONRSR alleges that ARTC failed to implement key safety measures and NSW Trains failed to notify its drivers of the divergence at Wallan, or install warning measures on the approach to the track change.

It also alleges that NSW Trains, as an accredited rolling stock operator, owed a duty to ensure the safety of its operations, including to its workers and the passengers aboard the XPT, and had not reduced or eliminated the risk of the train derailing, or ensured that safety staff were aware of critical information, such as changes to the rail network, before each journey.

In an investigation report, the Australian Transport Safety Board (ATSB) said that on February 3, 2020—17

days before the derailment—a vehicle collided with overhead wiring at Wallan causing a fire that led to extensive damage to signaling equipment controlling train movements at Wallan.

The ATSB report said that because of delays in repairing the damaged signals, the XPT train driver Kennedy took on board a track pilot, Meintanis, to assist as a safety precaution before the train crossed the border into Victoria.

Trains at Wallan had been going straight on the main standard gauge line across the turnout for several weeks prior to the derailment. But this changed on the day of the derailment for track cleaning. Victoria's rail operator V/Line issued a circular a day earlier to its train drivers, warning them their trains would be diverted from the straight ahead line across and into the 1,550-metre Wallan loop, which had a speed limit of 15 kilometres per hour.

The XPT driver and co-pilot did not appear to know of the warning, however. Several passengers told the Australian Broadcasting Corporation (ABC) the train had been accelerating just before its derailment.

Prosecutors told the court they were deciding whether the charges will be dealt with as summary offences, or will be tried in a higher court as indictable offences. The case was due to return to court on November 20 but has been adjourned to a committal hearing next March.

What the prosecution fails to address are the failures of governments and politicians of all stripes to address a 50-year history of problems with this section of track, and the broader lack of rail maintenance.

Neither does it expose the failures of the Rail Tram and Bus Union (RTBU), under health and safety laws, to protect rail workers from the known dangers related to the substandard state of tracks and signaling

equipment.

Before he was tragically killed, Kennedy was worried about the safety of the trains and the track, which connects Australia's two largest cities. He told a rail enthusiast friend in an email two weeks before his death:

"[M]y last six Melbourne return trips have been very late or cancelled mainly due to train fault issues, 3 of the six runs I was down to one engine, on another trip I had no speedo and the only trip without a train fault was disrupted by the big derailment last week."

His friend told the *Sydney Morning Herald* that Kennedy had told him he half expected to be derailed the first few times he went to Melbourne because of violent sideways movements on some sections of the track. But he assumed the speed limits had been set by engineers who had calculated the safe speeds for trains using those sections.

Kennedy also told his friend he had concerns about the condition of the signals system and ongoing maintenance problems with the 1980s-era XPTs.

Kennedy was not alone in his complaints. From the 1970s, there have been a litany of media reports by railworkers and the public complaining of the poor state of tracks, maintenance, shoddy construction and safety. None of this is a mystery to the governments or the RTBU.

In 2010, the Australian Broadcasting Corporation "7.30" program interviewed train drivers who called the Sydney to Melbourne rail line a "disaster waiting to happen."

Engineers and the ARTC agreed that the underlying problem was that the track was built over mud plains. David Marchant, the ARTC's CEO in 2010, admitted that the Victorian section of the track, constructed in 1970 using inferior ballast, was not up to standard. Drivers said that in some sections of track the sleepers were invisible due to mud being pushed up when trains drove over them.

After the derailment, then Deputy Prime Minister and Transport Minister Michael McCormack attempted to head off any suggestion of government culpability. "No authority in Australia would allow a train to travel on an unsafe track," he said. "That just wouldn't happen. I know the ARTC monitors these things closely and regularly."

An RTBU spokesperson, Luba Grigorovitch, claimed

that the derailment may have been avoided if the XPT had operated under Victorian rules, instead of national regulations.

But, as the WSWs asked at the time, if the RTBU, which covers rail workers in Victoria and NSW, regarded the passing loop as unsafe, why did it not instruct its members to refuse to switch trains onto the track, using its legal rights under occupational health and safety laws?

Since the derailment the Victorian state Labor government has reportedly spent \$260 million belatedly upgrading the track. That only begs the question as to why capitalist politicians will claim to see the safety of workers and the public only after a major catastrophe.

Such unsafe conditions exist internationally. Derailments, collisions and other accidents are a daily occurrence on US railroads, for instance. According to the US Federal Railroad Administration, last year there were 8,076 train accidents which injured 4,622 people and killed 753. Among railroad workers, 2,568 were injured and 11 died.



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