I wish to turn your attention to clause 12. You have raised this issue as one of your major concerns. As I read this clause, it provides that the commission must be guided by the need for terms and conditions of employment which are consistent with the economic viability and competitiveness of a coast-to-coast railroad system.

How could those words not also be in the interest of the employees of the rail companies, as well as of interest to the rail companies and of interest to the Canadian public?

Mr. Fane: Let me see if I can answer. On economic viability and competitiveness, the workers whom we represent have absolutely no say over capital expenditures, over the number of layers of management, over the competence level of the people running the firm. Under this clause, we will end up before a commissioner, and we will do very much what Mr. Tellier just did. He came in here and — if I heard him properly in the other room — listed all the finances of how the railway is run compared to competitors.

We will do some of that in return. For example, we will start off with the cost in the United States compared to Canada, and is that a good measurement? They only have 250 million people in the United States. We have 27 million here. You get into a statistical argument. They talk about their productivity. When we measure our productivity, we think it is higher. They talk about their cost. They do not tell you, for example, in comparing figures, that they do not have the medicare cost tied in which American employers must pay. We will argue about what workers should deserve in Canada compared to Canadian industry. Mr. Tellier and friends will argue that they should be making as much money as the best or second best railway in the United States. It is a little bit like apples and oranges, to be honest with you.

• (1710)

We want the companies to do well. We like it when CN is making money. I know the management likes it. They received big bonus cheques that were passed out yesterday or the day before. We want the company to make money, just like we want CP Rail to make money.

We do not want to be responsible for their competence or incompetence. We do not want the commissioner using that as a yardstick on how workers that we represent, the 20,000 of them, should be dealt with in the land of collective bargaining and a new collective agreement.

Senator De Bané: Mr. Fane, did I understand correctly when you were discussing what potential harm can occur over the years between employees and management that you stated that it all depends on whether the commission is balanced? Is that it?

Mr. Fane: Yes, sir. It is based on whether the commissioner is balanced. It is based on how the hands of the commissioner are tied. Right now at CN rail there are 3,500 workers who have had no contract since 1991. There are 1,600 workers who have been dealt a serious psychological blow financially. They suddenly woke up September 1, 1993, and they were not CN employees anymore. There was a new company called AMF Transport set up by CN. All the CN employees were told that they had no collective agreement because AMF is provincial. Our union had to recertify those people who have had no collective agreement for the last year.

Yes, how the arbitrator deals with these people will be very important. I worry about the relationship between the workers and the employer and the relationship between our union and the employer. If you tie the arbitrator's hands and he is limited in scope with respect to what he can do, and he is tied by clause 12 of this bill, these people can be hurt even more.

Senator De Bané: You just told me again that some shop craft workers have been without an agreement since 1991. What makes you hope that without binding arbitration you can reach a negotiated settlement, which has been elusive since 1991?

Mr. Fane: The shop craft workers have only been in our organization since the vote of the shop craft people. I can live with the binding arbitration, sir. We can live with it. We know the economic impact on the country right now. We believe we can live with it. It is not our first choice.

We are saying that you should let the arbitrator be free to analyse the issues, to analyse the situation, just like Mr. Hope was free. You should not tie the person by clause 12, because it was put in there after a great deal of lobbying by CN, CP and VIA. This particularly tilts the degree of fairness.

Senator De Bané: I think that economic viability and competitiveness are laws in economic activity which are as imperative as laws of physics or any other laws of nature. Just look to history. Can you tell me of any human economic activity that has been pursued for a long period of time if there was no economic viability and competitiveness? Do you not think that those two words go without saying?

In my opinion, no government in the world can change the law of physics or economic viability. Clause 12 also contains words to the effect that the process should also take into account the importance of good labour-management relations.

Would you not agree that any decision rendered by that commission must talk about the real world, and the real world deals with economic viability?

Mr. Fane: If you are right that economic viability and competitiveness are found everywhere, that is a good reason why you do not need them in clause 12 of this legislation.

Senator De Bané: I understand that the Minister of Labour met with you last Saturday and suggested that you design your own binding settlement mechanism. Have you made any efforts to reach such an agreement?

Mr. Fane: The minister was kind enough to meet with us on Sunday to give us that opportunity. We have talked and continue to talk to the employers to see if it is possible, particularly on VIA Rail. The employers tell us, "No, absolutely not." They will not come to any terms on a mediation-arbitration approach to solve the issues. They want to be free to do whatever they think is necessary in the economic viability and competitiveness question.