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**SUBMISSION BY NOVA SCOTIA CONSTRUCTION LABOUR RELATIONS ASSOCIATION  
TO LAW AMENDMENTS COMMITTEE  
BILL 128**

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This submission is made on behalf of the Nova Scotia Construction Labour Relations Association Limited, the accredited bargaining agent for all unionized employers in the industrial/commercial sector of the construction industry.

1. The Bill proposes that arbitrators may have regard to the “real substance of a matter in dispute”. This provision may allow an arbitrator to “correct” an improperly described grievance. Grievors appearing in front of an arbitrator normally have the benefit of experienced and knowledgeable legal counsel. It is not clear why this provision is necessary. Additionally, it is obviously important that the party being grieved has clear notice of precisely what the issue in dispute may be in advance of an arbitration hearing, so as to be able to prepare adequately. If the substance of a grievance can be changed while the hearing is in progress then, clearly, a party may be severely disadvantaged and/or the proceedings may be delayed. Grievors should be encouraged to be as precise as possible in articulating the issue in dispute, rather than be encouraged to think an arbitrator may “fix up” their cause of action.
2. Most disturbingly, the Bill proposes that arbitrators may be permitted to substitute their own idea of an appropriate penalty in place of one explicitly negotiated and agreed to between the parties to a collective agreement. This provision is dangerous. The parties to a collective agreement know far better than any arbitrator the standards of conduct prevailing in their industry or workplace, and their agreement on matters of this sort should be respected and upheld, rather than be open to second guessing.