Memorandum by the Lord Chancellor.

1. The purpose of this memorandum is to suggest that the question of legislating as to Trade Unions should be referred to a Committee with a view to the introduction of a Bill after the Whitsuntide recess. In view of recent events some such legislation appears to be unavoidable; and, if so, it is desirable to take action without delay.

2. I would put in the forefront of the Bill a section on the lines of the Attorney-General's proposal for declaring any strike which is not founded on a real trade dispute but is intended to coerce or intimidate the public, to be illegal. The decision of Mr. Justice Astbury that the general strike was illegal is very helpful; but it is subject to appeal, and a definite declaration by Parliament would save much litigation and would have a considerable moral effect.

3. It is urgent also, in order that we may fulfil our pledge that those who have continued at work shall not suffer, that statutory provision should be made for that purpose. No doubt it follows from the decision of Mr. Justice Astbury that no member of a trade union can legally be expelled from the union for refusing to join in the general strike; but this is of little use to a man who is prevented by section 4 of the Trade Union Act 1871, from taking any legal proceedings for enforcing his rights. This disability can only be removed by statute.
4. It has been suggested that a member of a trade union who has been expelled or otherwise penalised for continuing at work during the general strike might be granted the right to leave the union and claim payment of his "surrender value", i.e., payment of a sum based on the length of his membership of the union. The following formula has been suggested to me by the Registrar of Friendly Societies:—

"He shall be paid out of the funds of the union a sum equivalent to one half of the contributions (other than contributions, if any, to the political fund of the union) payable by him under the rules of the union during the year 1925, whether directly or by deduction from benefits or otherwise, multiplied by the number of years during which he has been a member of the union."

5. Some members of trade unions say that it is useless to give them a right of action against their unions, as they cannot afford to go to law. In order to meet this point I suggest that it might be possible to follow the precedent of section 9 (2) of the Trade Boards Act 1918, which enables a Trade Board, if satisfied that a worker has been paid less than a minimum wage, to sue in his name for the deficiency. A similar power might be given to some public authority to sue a trade union on behalf of members improperly expelled or penalised by the union on account of their action during the general strike.

6. Apart from the pressing questions above referred to, there are some other changes which, now that the crisis has passed, might be included in the Bill. Most registered trade unions have a rule which requires a vote of the members to be taken, either by ballot or at a meeting, before a strike is declared; but this rule was broken
by several unions during the recent strike. Other unions have no such rule, but leave it to the Executive to declare a strike. The Transport workers' Union has a rule authorising "the over-riding authority" (which is not defined in the rule, but is presumably the Trade Union Congress) to call a strike and make a levy upon the members of the union for the purpose; but this rule is probably invalid. It seems desirable to enact that a strike called without the authority of a secret ballot of the members of the union shall be illegal.

7. A Bill was recently prepared at the request of the Public Order Committee of the Cabinet providing that in the case of essential public services - food, light, transport, etc - a strike shall be preceded by arbitration. The Committee, if appointed, might consider this question.

8. The opportunity might also be taken for dealing with the question of the political levy.

9. There is a considerable demand for the repeal of the Trade Disputes Act 1906. I think that section 4 of that Act, which provides that an action against a trade union or any members or officials thereof in respect of any tortious act shall not be entertained by any court, should be repealed. In the document signed by the railway unions on Friday last "the trade unions admit that in calling a strike they committed a wrongful act against the companies"; but there is no legal remedy for this wrong. The provision in section 3 of the Act that an act done in furtherance of a trade dispute is not actionable on the ground that it induces a person to break a contract of employment, should also be considered. I doubt whether sections 1 and 2 should be repealed, but it should be made clear that they do not apply to an illegal strike. This question is rather urgent, as a Bill for repealing the Act of 1906 may come on for second reading in the House of Lords on the 20th instant.
10. I would also like the Committee to consider whether registration of a trade union should not be made compulsory. Many unions are unregistered, and therefore file no rules and make no financial returns; and in many of these cases the whole of the members' subscriptions are spent on "protection", i.e., strikes and the payment of officials, and there are no funds for providing funeral and other benefits. I doubt whether this proposal, which would be a protection to the members of trade unions, would be strongly opposed.

17th May, 1926.