

***Parliamentary Handling of Non-Ordinary Bills***

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## EXECUTIVE SUMMARY

1. There are no bills which can be classified as "important" bills in either France or the United Kingdom ("UK"), the non-passage of which will lead to a change of government or the dissolution of the legislature.
2. In France, steps for the Government to engage its responsibility and for the National Assembly to raise a motion of censure are clearly set out in the Constitution and the Rules of Procedure of the National Assembly ("Rules of Procedure"). The Prime Minister is **not** required to give prior notice for such engagement--he can engage the Government's responsibility on the spot provided that such an engagement has been deliberated by the Council of Ministers [i.e. Cabinet].
3. Studies have shown that engagement of Government responsibility has been more related to maintaining the political stability of the coalition forming the Government rather than to the subject matter dealt with by the bill in question.
4. Experience in the past 25 years shows that out of a total of 64 motions of censure, none resulted in a change of Government in France. The major reason has been a lack of sufficient votes. On one occasion, however, when the President of the Republic was unhappy with the political composition of the National Assembly, he dissolved the National Assembly under Article 12 rather than having the Prime Minister face a motion of censure.
5. In the UK, a total of 32 confidence motions have been moved in Parliament since 1945, one of which resulted in a Government defeat. The convention has changed in the past few decades--previously a Government was obliged to resign or seek a dissolution of Parliament following a clear defeat on an issue central to its policy; current practice appears to require a Government to resign or seek a dissolution of Parliament only following a defeat in Parliament on a confidence motion.
6. In both France and the United Kingdom, precedence is given to the handling of motions of censure. In France, no amendment can be made to motions of censure while in the UK, amendments to confidence motions are allowed.
7. Care must be taken in comparing Article 49(3) of the French Constitution to Article 50 of the Hong Kong Special Administrative Region (HKSAR) Basic Law. The consequence in France of the passage of a motion of censure is the resignation of the Government, leaving the National Assembly intact; the consequence of non-passage of an important bill in HKSAR is not the resignation of the Government, but the dissolution of the Legislative Council. Nonetheless, under Article 52(3) of the Basic Law, this dissolution of the Legislative Council shall lead to the resignation of the Chief Executive of the HKSAR if the new Legislative Council still refuses to pass the original bill in dispute.
8. In the United Kingdom, a dissolution of Parliament is initiated in the Parliament itself and is a necessary step towards the formation of a new Government. In Hong Kong, only the Chief Executive of the HKSAR has the power to dissolve the Legislative Council. Again, the dissolution of the Legislative Council shall lead to the resignation of the Chief Executive of the HKSAR if the new Legislative Council still refuses to pass the original bill in dispute.

# PARLIAMENTARY HANDLING OF NON-ORDINARY BILLS

## PART 1 - INTRODUCTION

### 1. Background

1.1 On 30 June 2000 the Research and Library Services Division was requested by the Panel on Constitutional Affairs to undertake a research on overseas experience in handling the subject of "important bill" which the Panel discussed at its meeting on 19 June 2000 in the context of Article 50 of the Basic Law of the Hong Kong Special Administrative Region ("Basic Law" hereafter).

1.2 Article 50 of the Basic Law stipulates:

"If the Chief Executive of the Hong Kong Special Administrative Region refuses to sign a bill passed the second time by the Legislative Council, or the Legislative Council refuses to pass a budget or any other **important bill** [*emphasis added*] introduced by the government, and if consensus still cannot be reached after consultations, the Chief Executive may dissolve the Legislative Council.

The Chief Executive must consult the Executive Council before dissolving the Legislative Council. The Chief Executive may dissolve the Legislative Council only once in each term of his or her office."

### 2. Scope

2.1 The focus of this study is on the procedural handling of bills which are classified to be "not ordinary", i.e. the non-passage of such bills, if any, may lead to a change of Government or dissolution of Parliament, the latter consequence being the consequence of Article 50 of the Basic Law if the Legislative Council of Hong Kong Special Administrative Region refuses to pass an important bill introduced by the government and consensus cannot be reached after consultations.

2.2 The Panel specified a study of the practice in France as Article 49(3) of her constitution provides for a mechanism under which the government can engage its responsibility to a certain bill which may precipitate a motion of censure. If the motion of censure is carried, it will result in the resignation of Government.

2.3 This study also outlines the experience of the United Kingdom where passage of confidence motions may lead to a change of Government.

2.4 We will illustrate the experience of France and the United Kingdom in the past few decades where appropriate. In Part 6 of this study, we will make a comparison and analysis of the experience of these two countries for reference.

### **3. Methodology**

3.1 Information in this report is obtained from relevant reference books, journals, research reports and the Internet. Interviews with local scholars in French studies, French constitutional law and the French Consul-General in Hong Kong were also held.

3.2 In this study, we adopt the official term "motions of censure" when we describe confidence motions in France. We also retain the official term Deputy for Members of the National Assembly in France where it is so referred to in the original constitutional documents.

3.3 Unless specified otherwise, all reference to Articles in this report is the Articles in the French Constitution of 1958 (the Fifth Republic), as amended up to 24 September 2000.

## PART 2 - EXPERIENCE OF FRANCE

### 4. Overall Legislative Framework

4.1 Bills in France are mainly differentiated by their sources into two types, namely, government bills which are initiated by the Prime Minister in Parliament and bills initiated by Members of Parliament. Article 39 of the Constitution requires Government bills to have been discussed in the Council of Ministers (i.e. Government Cabinet)<sup>1</sup> after consultation with the *Conseil d'Etat* (Council of the State)<sup>2</sup> and are to be introduced in one of the two assemblies, namely the Senate or the National Assembly. Finance bills and social security finance bills are required to be presented first to the National Assembly.

4.2 The Parliament adopts three types of procedures for handling bills and other legislative instruments: one for ordinary bills, one for finance bills and social security finance bills, and one for special legislative instruments such as amendments to the constitution. The Rules of Procedure of the National Assembly set out which rules to follow in any of these cases.

4.3 Like other legislatures, the ordinary legislative procedure of the French National Assembly involves the tabling of bills, committee stage, setting the bills down on the agenda of the National Assembly for the various readings, and debates which provide opportunities for the introduction of amendments. After their passage in the National Assembly, the bills are transmitted to the Senate. If Senate accepts the original version of the bill, it is sent to the Government. If Senate rejects the bill, procedures are adopted to enable an agreement between the two assemblies to be worked out, failing which the Government may ask the National Assembly to determine the final version of the bill by a majority of the votes cast.

4.4 However, if the Government engages its responsibility to a bill which might precipitate a motion of censure, then special legislative procedures apply, which are described in more detail below.

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<sup>1</sup> The Council of Ministers is chaired by the President of the Republic, and membership consists of the Prime Minister, the Ministers and a number of junior ministers known as Secretaries of State. There are about 40 members of the Council of Ministers and positions tend to be hierarchical.

<sup>2</sup> The *Conseil d'Etat* (Council of the State) is an independent administrative tribunal established since the 1800s to resolve disputes between individual citizens and the administration of the bureaucracy. The President of the Republic is the president of this Council.

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### **PART 3 - LEGISLATIVE PROCEDURES FOR MOTION OF CENSURE IN FRANCE**

5.1 There are no provisions in either the Constitution of the Fifth French Republic or the Rules of Procedure of the National Assembly ("Rules of Procedure" hereafter) to classify bills as "not ordinary bills", the defeat of which may result in a change of Government or the dissolution of the National Assembly. However, the Constitution and the Rules of Procedure provide for the moving of "motions of censure", the official term for confidence motions in the French Parliament.

#### **6. Engagement of Government's Responsibility and Motion of Censure under Article 49 of the Constitution**

*Article 49 of the Constitution provides for the following:*

- "(1) The Prime Minister, after deliberation by the Council of Ministers, may make the Government's programme or possibly a statement of its general policy an issue of its responsibility before the National Assembly.
- (2) The National Assembly may raise an issue of the Government's responsibility by passing a motion of censure. Such a motion shall not be admissible unless it is signed by at least one tenth of the members of the National Assembly. Voting may not take place within 48 hours after the motion has been introduced. Only the votes in favour of the motion of censure shall be counted; the motion of censure shall not be adopted unless it is voted for by the majority of the members of the Assembly. Except as provided in paragraph (3) below, a Deputy shall not sign more than three motions of censure during a single ordinary session and more than one during a single extraordinary session<sup>3</sup>.

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<sup>3</sup> Article 28 of the Constitution: "Parliament shall convene as of right in one ordinary session which shall start on the first working day of October and shall end on the last working day of June. The number of days for which each assembly may sit during the ordinary session shall not exceed 120..." Art. 29: "The Parliament shall convene in extraordinary session, at the request of the Prime Minister or of the majority of the members of the National Assembly, to consider a specific agenda. Where an extraordinary session is held at the request of members of the National Assembly, the decree closing it shall take effect once Parliament has dealt with the agenda for which it was convened, or 12 days after its first sitting, whichever shall be the earlier. Only the Prime Minister may request a new session before the end of the month following the decree closing an extraordinary session." Art. 30: "Except where Parliament convenes as of right, extraordinary sessions shall be opened and closed by decree of the President of the Republic."

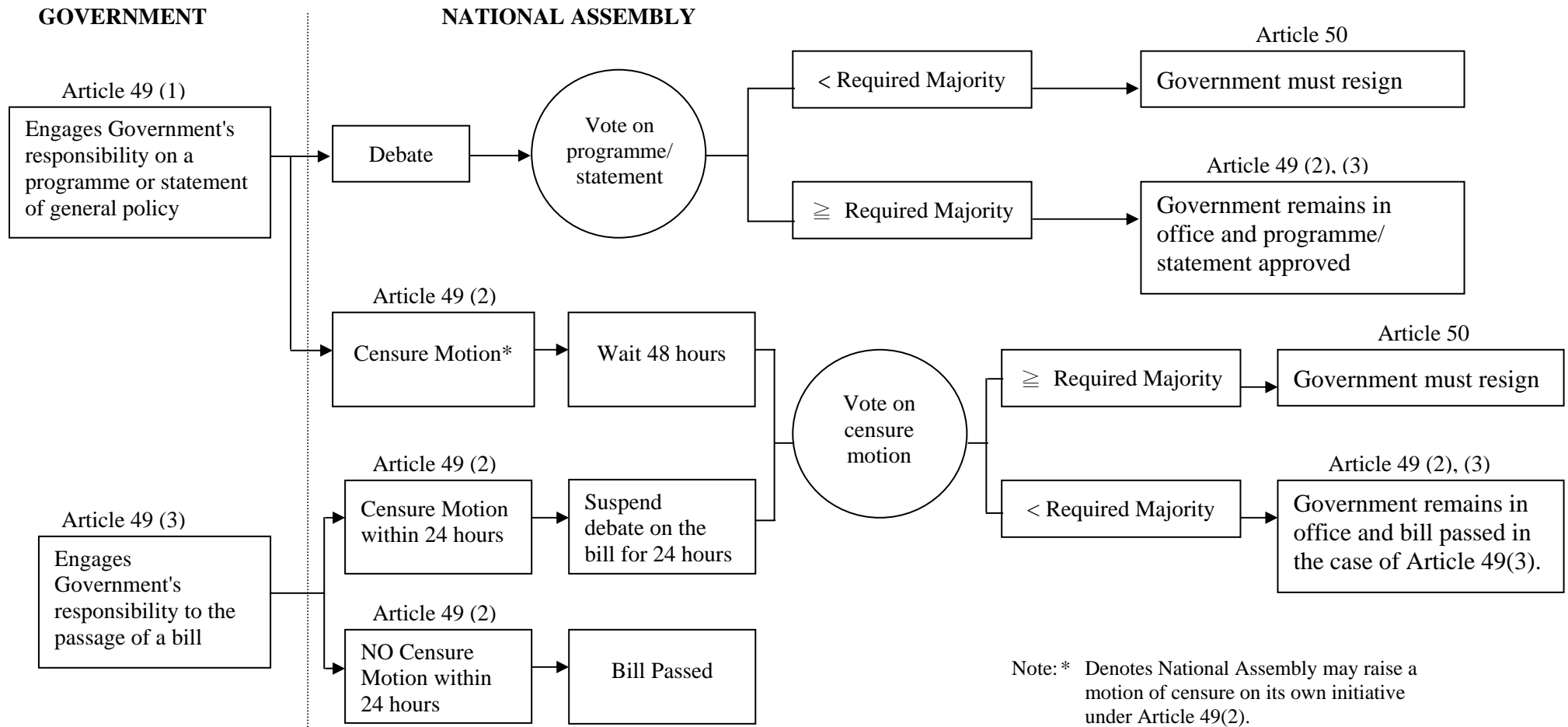
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- (3) The Prime Minister may, after deliberation by the Council of Ministers, make the passing of a bill an issue of the Government's responsibility before the National Assembly. In that event, the bill shall be considered adopted unless a motion of censure, introduced within the subsequent twenty-four hours, is carried as provided in paragraph (2) above.
  
- (4) The Prime Minister may ask the Senate to approve a statement of general policy."

6.1 Article 50 of the Constitution provides that "where the National Assembly carries a motion of censure, or where it fails to endorse the programme or a statement of general policy of the Government, the Prime Minister must tender the resignation of the Government to the President of the Republic."

**Relations Between the National Assembly and the Government:  
A Graphical Summary of the Provisions of  
Articles 49(1), (2) and (3) and 50 of the Constitution of the Fifth French Republic**



### Engagement of Government Responsibility

6.2 The Rules of Procedure set out the procedure for the engagement of Government responsibility under both Article 49(1) and Article 49(3) of the Constitution respectively.

#### *Procedural Arrangements in the National Assembly under Article 49(1) of Constitution*

6.3 When the Prime Minister makes the Government's programme or a statement of its general policy an issue of its responsibility under Article 49(1) of the Constitution, the Rules of Procedure stipulate that Chairmen's Conference<sup>4</sup> arrange a *debate* in the following manner:

- (1) the Chairmen's Conference determines the total time to be allotted to political groups<sup>5</sup> in the sittings at which a statement is to be debated. The President of the National Assembly allocates time to each political group in proportion to its numbers.
- (2) The Prime Minister or a member of the Government is the last to speak so that he may answer those who have spoken in the debate.
- (3) After the closure of the debate, the floor may be given for an explanation of vote.
- (4) The President of the National Assembly puts to vote approval of the Government's programme or statement.
- (5) An absolute majority of votes cast is required.

6.4 There is **no** requirement for the Prime Minister to give prior notice for the engagement of responsibility under Article 49(1). The only requirement is that the Prime Minister's engagement of Government responsibility must have been deliberated by the Council of Ministers prior to its presentation in the National Assembly. The latest engagement of Government responsibility under Article 49(1) was made by Prime Minister Lionel Jospin on 19 June 1997 on the general policy of the Government.

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<sup>4</sup> The Chairmen's Conference, also known as the Presidents' Conference, is the steering committee which assists the President of the National Assembly. The Chairmen's Conference consists of leaders (also called chairmen or presidents) of the various parliamentary parties. It is responsible for the allocation of committee seats and the allotment of time for debate on most legislative items.

<sup>5</sup> A political group is the basic grouping unit in the National Assembly.

6.5 According to Article 50 of the Constitution, "where the National Assembly carries a motion of censure, or where it fails to endorse the programme or a statement of general policy of the Government, the Prime Minister must tender the resignation of the Government to the President of the Republic."

*Procedural Arrangements in the National Assembly under Article 49(2) and 49(3) of Constitution*

6.6 Where the Prime Minister makes the passing of a bill an issue of the Government's responsibility under Article 49(3) of the Constitution, the Rules of Procedure stipulate that debate on the bill shall immediately be suspended for 24 hours. The Prime Minister is **not** required to give prior notice for such engagement of Government responsibility--he can do so by making a statement "on the spot" at any stage in the passage of the bill provided that such an engagement has been deliberated by the Council of Ministers before it is presented to the National Assembly.

6.7 The bill engaged under Article 49(3) of the Constitution will be considered adopted unless a motion of censure introduced within the subsequent 24 hours (during which debate is suspended) is carried as provided in Article 49(2) of the Constitution. The Rules of Procedure set out the procedure for handling a motion of censure raised under Article 49(2), details of which are summarized as follows:

- (1) Within the 24-hour time limit a motion of censure may be delivered to the President of the National Assembly in the following manner:
  - A motion of censure is tabled by delivering to the President of the National Assembly a document entitled "Motion of censure" together with the signatures of at least one tenth of the Members of the National Assembly.
  - No Member is allowed to sign more than one motion of censure at a time. Reasons may be given for motions of censure.
  - Once a motion of censure has been tabled, no signature is to be withdrawn or added.
- (2) The wording of the motion is required to refer to Article 49(3) of the Constitution. The motion is immediately posted on the noticeboard.

- (3) The President of the National Assembly notifies the Government of any motion of censure tabled within the time limit set. Otherwise, the President of the National Assembly takes note that the bill has been passed at the expiry of the time limit and then informs the Government.
- (4) The President informs the Assembly immediately or at the commencement of the following sitting.
- (5) The motion of censure tabled is set down on the agenda, debated and put to vote. The Rules of Procedure stipulate that the Chairmen's Conference determine the date on which motions of censure are to be debated; but should not be later than the third sitting day after expiry of the constitutional time limit of 48 hours after the motion has been tabled [as set out in Article 49(2)].
- (6) If more than one such motion has been tabled, the Chairmen's Conference may decide that they will be debated together, provided that each will be put to vote separately.
- (7) No motion of censure is allowed to be withdrawn once debate has begun. Once begun, the debate must continue until the motion is put to vote.
- (8) After the general debate, the floor may be given for an explanation of vote.
- (9) No amendment to a motion of censure is allowed to be moved.
- (10) Only Deputies in favour of the motion of censure will take part in the ballot.

6.8 The latest censure motion moved by the National Assembly in response to the engagement of Government responsibility under Articles 49(2) and 49(3) was in December 1995 over a social security reform bill. The censure motion was moved in the context of almost two weeks of nationwide chaos and strikes over Prime Minister' Alain Juppé's austerity programme to raise new tax to pay off the massive debt on the social security budget.

### Engagements made by the Government Between 1974 and 2001

6.9 Between May 1974 and February 2001, a total of 84 engagements of responsibilities have been applied by the Government under Article 49(1) and (3) of the Constitution. Amongst these 84 engagements, 36 were in respect of bills which were considered passed in the absence of the presentation of a censure motion, 32 (comprising at least 23 engagements in respect of bills) resulted in the presentation of censure motions, and 16 were in respect of the Government's programme or statements relating to general policy which were voted and received more votes in favour than against. None resulted in a change of the Government. For information, in the session 1998-1999, a total of 147 Government bills (8 of which were finance bills) and 221 Private Members' bills were introduced.<sup>6</sup>

6.10 A breakdown of the subject matter of these 84 engagements is given in Table 1 below. Details are tabulated in Appendix I.

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<sup>6</sup> Statistics from Secretariat of the National Assembly at <http://www.assemble-nationale.fr/>. Details of the different stages which these bills reached are not available.

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**Table 1 - Engagement of Government Responsibility  
(May 1974 - February 2001)**

<b>Subject of Policy/Programme/Bill</b>	<b>No. of Policy/Programme/Bill</b>	<b>No. of Censure Motions</b>
Finance laws <sup>7</sup> and social security system (e.g. finance bills, social security reform, etc.)	29	15
Economic and social policy (e.g. nationalization, privatization, working time, etc.)	27	10
Political and domestic issues (e.g. law on the press, electoral reform, etc.)	11	6
National defence and foreign affairs (e.g. military programme bill, European policy, EMU)	6	1
General policy of Government (e.g. inaugural policy address of a newly elected Government)	11	0
<b>Total</b>	<b>84</b>	<b>32</b>

6.11 There are studies which point out that the engagement of Government responsibility had more to do with the political stability of the coalition government rather than with the subject matter of the bills concerned.<sup>8</sup>

<sup>7</sup> There are special legislative procedures relating to the passage of finance bills. Article 47 of the Constitution: "...Should Parliament fail to reach a decision within 70 days, the provisions of the [a finance] bill may be brought into force by ordinance. [Article 38 of the Constitution stipulates that an ordinance is authorized by Parliament for a limited period only. It is issued in the Council of Ministers, after consultation with Conseil d'Etat. It comes into force upon publication, but lapses if the bill to ratify it is not laid before Parliament before the date set by the enabling Act.] Should the finance bill establishing the resources and expenditures for a financial year not be introduced in time for promulgation before the beginning of that year, the Government shall as a matter of urgency ask Parliament for authorization to collect taxes and shall make available by decree the funds needed to meet the commitments already voted for." Rule 118 of the Rules of Procedure: "If the National Assembly fails to adopt Part One [revenue] of a Finance Bill, the entire bill shall be deemed rejected." Article 40 of the *ordonnance* on finance laws of 2 January 1959: "Adoption of Part One [revenue] of a Finance Bill must precede discussion of Part Two [expenditure] of the Bill."

<sup>8</sup> John D. Huber, "Restrictive Legislative Procedures in France and the United States", *American Political Science Review*, Vol. 86, No. 3, September 1992.

*Article 49(2) of Constitution: Motion of Censure by the National Assembly*

6.12 Article 49(2) of the Constitution provides for the National Assembly to raise an issue of the Government's responsibility. This can be moved as a response to the Government's engagement of responsibility or on the initiative of the National Assembly itself.

6.13 A total of 64 censure motions have been moved under Article 49(2) and (3) of the Constitution between May 1974 and February 2001. A total of 32 censure motions were responses to the Government's engagement of responsibility, and another 32 were initiated by the National Assembly itself. None succeeded in ousting the Government. A breakdown of the subject matter giving rise to the moving of these 64 censure motions is given in Table 2:

**Table 2 - Censure Motions Between May 1974 and February 2001**

<b>Subject Matter Giving Rise to Censure Motions</b>	<b>No. of Censure Motions raised in response to engagement of Government's responsibility (a)</b>	<b>No. of Censure motions raised by the National Assembly on its own initiative (b)</b>	<b>Total No. of Censure Motions raised (a) + (b)</b>
Economic and social policy	10	19	29
Finance laws and social security system	15	1	16
Political and domestic issues	6	6	12
National defence and foreign affairs	1	6	7
<b>Total</b>	<b>32</b>	<b>32</b>	<b>64</b>



*Analysis of Article 49 of the Constitution*

6.14 The following observations have been made about the mechanism of engagement of Government responsibility and the provocation of a censure motion:

6.15 The power to make a matter an issue of confidence has been the subject of much controversy. First, Article 49(3) may be used to curtail the debate on a bill and requires the opposition to table and vote upon a censure motion in order to prevent the bill's passage. Since the passage of a censure motion requires an absolute majority of the membership of the National Assembly (not simply those voting), all abstentions count in the Government's favour. The President of the Comité consultatif constitutionnel (constitutional consultative committee responsible for working on the draft Constitution in founding the Fifth French Republic in 1958), Paul Raynaud, has argued that this mechanism would be used to "steamroller" legislation through: "every time that an **important** *[emphasis added]* text is involved, the Government will make it an issue of confidence and the National Assembly, prevented from discussing the text, will have no more than a right of veto. Uniquely in the world, the National Assembly will no longer pass the law, it is the Government that will do it by its own authority."<sup>9</sup>

6.16 Some studies have described Article 49(3) as a "guillotine" which forms part of the Government's procedural arsenal that renders the French Parliament impotent. Article 49(3) is generally perceived as "antidemocratic" and the French studies criticize this institution because it permits the Government to protect its bills from changes by Deputies in the National Assembly. In effect, controversial bills can be passed without a vote in the National Assembly. The first bill passed in such a manner related to the establishment of France's nuclear weapons capability. Many Deputies in the National Assembly were hostile to the bill, and the Government invoked Article 49(3) during the debate on a motion to send the bill back to committee before the bill was publicly debated in first reading; the Government later invoked Article 49(3) during the second and third readings. The bill was passed without a vote in the National Assembly in the entire process. Effectively, this procedure moves final policy outcomes away from the preferences of the directly elected Members towards the preferences of the government.<sup>10</sup>

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<sup>9</sup> *Avis et débats du Comité consultatif constitutionnel (Paris, 1961)*, 180.

<sup>10</sup> See John D. Huber, *ibid.*

6.17 Although the "antidemocratic" aspect of Article 49(3) is widely discussed, scholars also recognize that it can benefit Members of Parliament. This occurs when the Government uses the procedure to protect its majority from potentially embarrassing votes on amendments posed by the Opposition. Such usage has important stabilizing effects when the Government's majority is divided or numerically weak. This is particularly useful for coalition governments where the Government does not have a majority with certainty. Prime Minister Jacques Chirac used this procedure seven times in 1986-1988 (*cohabitation* period<sup>11</sup>) and Prime Minister Edouard Balladur used it once in June 1993 over a bill on privatization which received 3800 amendments! In those times, even the majority in the National Assembly depended on the Prime Minister to use this mechanism to cut short and manage the debates.<sup>12</sup> Studies have also shown that the Government's use of Article 49(3) seems to decline as elections approach.<sup>13</sup>

6.18 It has also been said that there is a common understanding among parliamentarians in France that owing to the ineffectiveness of the procedure under Article 49 to remove the Government, censure motions serve more as opportunities for different political groups to demonstrate their political stance rather than as a mechanism to oust the Government. In practice, Article 49 has evolved to render tangible benefits to both the Government and those in Opposition: the Government achieves its objective by getting its bills passed or policy programmes endorsed and other political groups benefit from showing again to their supporters their commitment to certain political beliefs.

6.19 In sum, from the Government's perspective, Article 49(3) enables the legislative process to be expedited and assures the passage of legislation within a short period, but it "denies Parliament its deliberative function and imposes silence where there should be discussion and decision."<sup>14</sup>

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<sup>11</sup> When the President of the Republic and the Prime Minister come from opposing political groups, such period of government is known as *cohabitation* in France.

<sup>12</sup> Louis Favoreu, *Droit constitutionnel*, 3<sup>rd</sup> edition, 2000, p. 719.

<sup>13</sup> John D. Huber, *ibid.*

<sup>14</sup> Joël Boudant, "La Crise identitaire du Parlement français," *Revue du droit public*, September - October 1992, pp. 1322 - 1402.

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#### **PART 4 - LEGISLATIVE PROCEDURE FOR OTHER NON-ORDINARY BILLS IN FRANCE**

7.1 The Rules of Procedure of the National Assembly stipulate three legislative procedures to be adopted in different circumstances and for different legislative instruments, namely ordinary legislative procedure, legislative procedure for finance bills and social security finance bills, and legislative procedure to be adopted for special legislative instruments such as referendum motions, amendment of the Constitution, bills which deal with the organization of political institutions, ratification of treaties and approval of international agreements, and declaration of war and martial law. Since the non-passage of these special legislative instruments does not directly result in a change of government, we will not include them in this study, except that we will mention one case because of its constitutional significance.

7.2 In 1962, President de Gaulle's proposal to change the method of electing the President of the Republic<sup>15</sup> had provoked a storm of protest in both Chambers of Parliament. The National Assembly had more than the required absolute majority for censure of the Government headed by Pompidou. However, instead of terminating the appointment of Pompidou, de Gaulle expressed his lack of confidence in the National Assembly by dissolving it under Article 12 of the Constitution: "The President of the Republic may, after consulting the Prime Minister and the Presidents of the assemblies, declare the National Assembly dissolved."

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<sup>15</sup> De Gaulle proposed presidential election by direct universal suffrage to replace the original procedure for electing the President of the Republic which involved an electoral college composed of some 80,000 national and local representatives. This would "create a dialogue between the President and the people" which was in contrast to the honorific role played by the President of the Republic previously. In the Fourth French Republic (1946-58), Parliament chose the President of the Republic.

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## **PART 5 - EXPERIENCE OF THE UNITED KINGDOM: LEGISLATIVE PROCEDURES FOR MOTION OF CENSURE**

8.1 In the British system of government, there are no defined categories of bills the defeat of which would precipitate the resignation of the Government. However, there are conventions under which a Government, if defeated on a matter of "confidence" in the House of Commons, would be expected either to resign or to seek a dissolution of Parliament.

8.2 There used to be a convention that a Government was obliged to resign or seek a dissolution of Parliament following a clear defeat on an issue or bill central to its policy. However, recent practice as from the mid-1970's onwards appears to require such consequences to follow only a defeat on a formal confidence motion or a motion that the Government has stated that it regards as one of confidence. In other words, a defeat in the House even on a major Government policy does not automatically lead to the Government's resignation or a dissolution of Parliament, but is more likely to be followed by the tabling of a confidence motion to decide whether the House wishes the Government to remain in office.

8.3 The following are some essential features of confidence motions.

(1) Timing

- By established convention, the Government always accedes to the demand from the Leader of the Opposition to allot an early day for the discussion of a confidence motion. A debate on a confidence motions generally takes precedence over the normal business for that day. Parliament may even be recalled from recess for such a debate to take place.
- The significance of this convention is the recognition that "the Opposition is not just a nuisance to be tolerated, but a definite and essential part of the Constitution."<sup>16</sup>

(2) Terms

- A confidence motion usually includes terms such as "confidence" or "censure", and a substantive motion may refer, in critical or supportive terms, to an issue of current political importance or to one central to the Government's policy.<sup>17</sup>

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<sup>16</sup> Sir Ivor Jennings, *Parliament*, 2<sup>nd</sup> ed. 1970 reprint, p.158.

<sup>17</sup> Sometimes, the terms may be apparently innocuous, such as "That this House do now adjourn" of the adjournment motions of 11 March 1976 and 20 July 1977.

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- Since the Opposition would normally be critical of the Government or its policies, one cannot broadly assume that any motions with the words 'no-confidence' to be a confidence motion. The motion must be read in context to mean having the essential aim of removing the Government in order to qualify as a confidence motion. Confirmation from the speakers who will open the debate ensures no misinterpretation when the agenda is set for allocation of an early day.

### Changing Convention on Constitutional Practice on Significant Government Defeats

8.4 A defeat on a bill or a substantive motion central to the Government's policy may lead to a confidence motion being tabled by either the Government itself to demonstrate the House's confidence in the Government notwithstanding the defeat (e.g. 23 July 1993), or by the Opposition seeking to prove that such defeat demonstrated the removal of the House's confidence in the Government.

8.5 Professor Geoffrey Marshall, a well-known scholar in British constitutional studies, neatly summarized this academic view of a developing convention: "as to what constitutes a loss of confidence there seems...to have been a development of the doctrine. The books used to say that defeat on major legislative measure or policy proposals as well as on specifically worded confidence motions was fatal to the continuance of the Government. But this no longer seems to be believed or acted on ...In the 1960s and 1970s, in any event, governments seem to have been following *a new rule* [emphasis added], according to which only votes specifically stated by the Government to be matters of confidence, or votes of no confidence by the Opposition are allowed to count"<sup>18</sup>. Professor Philip Norton, another prominent professor of constitutional studies, has also considered this issue in detail in the light of the experience of the 1970s<sup>19</sup>.

8.6 For a system of parliamentary government, what is involved is essentially a Government's ability to carry on in office, which ultimately must depend on it maintaining a confidence of the House of Commons. A confidence motion is a device which directly tests that confidence.

8.7 If the result of a confidence motion demonstrates that the Government has indeed lost the confidence of the House, and cannot therefore continue to govern effectively, it must resign or seek a dissolution of Parliament. No other parliamentary event requires such an outcome, and suggestions that various obviously important occasions such as, say, the Queen's Speech or the second reading of the Finance Bill, are tantamount to confidence motions must, in modern circumstances, remain speculative.

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<sup>18</sup> Geoffrey Marshall, *Constitutional Conventions*, Oxford: Clarendon Press, 1984, pp55-56.

<sup>19</sup> See Philip Norton, *The Constitution in Flux*, Oxford: Robertson, 1982, pp67-69

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8.8 The conclusion which may be drawn from this brief consideration of the precedents and apparent conventions is that the confidence of Parliament in the Government of the day can always be assumed to exist, even in periods of minority government, **unless and until** it is shown to be otherwise, and that can only be demonstrated conclusively and unambiguously by way of a confidence vote. A Government can always feel entitled to assume the confidence of Parliament in its continued existence, notwithstanding any setbacks such as defeats or significant rebellions in the division lobbies. It may wish to put Parliament's confidence to the test by moving a motion of confidence or by expressly treating a motion put down by itself or by others as a confidence motion, or it can refuse to treat any such setback as relevant to its remaining in office and thereby put the onus on its opponents to provoke such a test by moving a no-confidence motion.<sup>20</sup>

### Statistics

8.9 A total of 32 confidence motions have been moved in the Parliament since 1945, one of which resulted in a Government defeat. Apart from one which was moved in the House of Lords<sup>21</sup>, all such motions were moved in the House of Commons. A more detailed description of these confidence motions is in Appendix II. Appendix II also contains information on confidence motions between 1895 and 1945 where the Government suffered a defeat.

### Amendment of Confidence Motions and a Changed Convention

8.10 Both Government and Opposition may move amendments to confidence motions, which may themselves be regarded as confidence motions according to the above criteria. There used to be a convention that confidence motions were not amended. However, this convention has changed in the past 50 odd years. Governments have amended Opposition motions on three occasions since 1945: 1 November 1956, 2 February 1963 (censuring the previous Government), 31 January 1985. Oppositions have amended Government motions on three occasions: 5 and 6 November 1956, 24 September 1992, and 10 November 1964.

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<sup>20</sup> Barry Winetrobe and Janet Seaton, "Confidence Motions", Research Paper 95/19, House of Commons Library, 7 February 1995

<sup>21</sup> Conventional constitutional theory nowadays would imply that confidence motions have no place in the Upper House, and that the House of Lords has no role in the making or unmaking of governments.

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## 9. House of Lords

9.1 Conventional constitutional theory nowadays would imply that confidence motions have no place in the Upper House, since the expression of parliamentary confidence in the Government should be a matter for the elected House of Commons. Professor Donald Shell, a well-known scholar in British constitutional studies, asserts that “the House of Lords ... has no role in the making or unmaking of governments”<sup>22</sup>, Lord Morrison of Lambeth stated that “a Lords’ vote of confidence in the Government of the day does not of itself imperil the Administration”<sup>23</sup> and the current edition of Wade & Bradley’s *Constitutional and Administrative Law*, a classic in British constitutional studies, states that “it is the House of Commons alone that by withdrawing its support can cause the Prime Minister either to resign or to seek a dissolution” [p190].

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<sup>22</sup> *The House of Lords*, 2<sup>nd</sup> ed., 1992, p.64

<sup>23</sup> *Government and Parliament*, 3<sup>rd</sup> ed., 1964, p.187

## **PART 6 - COMPARISON AND ANALYSIS**

### **10. A Class of "Important" Bills?**

10.1 This study shows that there are no bills which can be classified as "important" bills in either France or the United Kingdom, the defeat of which may result in a change of Government or the dissolution of Parliament.

### **11. Motion of Censure in France**

11.1 In France, a formal mechanism is provided in the Constitution for the raising of a motion of censure against an engagement of Government responsibility. Steps are clearly defined and they have been followed in practice.

11.2 Earlier studies have shown that engagement of Government responsibility has been more related to the political stability of the coalition forming the Government rather than to the subject matter of the programmes or bills in question. In other words, the engagement of Government responsibility has been used to protect the Government majority in Parliament from potentially embarrassing votes on amendments posed by the Opposition.

11.3 In the past 25 years, no motion of censure has resulted in a change of Government, the major reason being a lack of sufficient votes to fulfil the majority required to pass such motions.

11.4 One significant incident in the past shows that when the President of the Republic was unhappy with the political composition of the National Assembly, he was able to and did dissolve the National Assembly under Article 12 rather than having the Prime Minister face a motion of censure.

### **12. Confidence Motions in the United Kingdom**

12.1 In the United Kingdom, convention has it that when the Opposition put down a motion of censure, the Government responds by allotting an early day for its debate.



### **13. Procedural Handling of Confidence Motions in Both Countries**

13.1 In both France and the United Kingdom, precedence is given to the handling of motions of censure. In France, the debate on the bill which is the subject of the engagement of Government responsibility is suspended to enable the debate on the motion of censure to take place within the next following three sittings of the National Assembly. In the United Kingdom, an early day is allotted for the debate of confidence motions. One may conclude that in a system of parliamentary government, the Opposition is given constitutional recognition and any expression of a lack of confidence in the ability of the Government to govern is treated with the highest priority.

13.2 One may also conclude that in both countries, until and unless a motion of censure is moved, the Government can assume that it maintains and continues to enjoy the confidence of Parliament.

### **14. Reference for Hong Kong**

14.1 Care must be taken in comparing Article 49(3) of the French Constitution to Article 50 of the Basic Law of the Hong Kong Special Administrative Region (HKSAR). The consequence in France of the passage of a motion of censure is the resignation of the Government, leaving the National Assembly intact. Under Article 50 of the Basic Law, if the Legislative Council refuses to pass an "important" bill, the Chief Executive may dissolve the Legislative Council. Nonetheless, this dissolution may lead to the resignation of the Chief Executive of the HKSAR under Article 52 of the Basic Law:

"The Chief Executive of the HKSAR must resign under any of the following circumstances: .....

- (3) When, after the Legislative Council is dissolved because it refuses to pass a budget or any other important bill, the new Legislative Council still refuses to pass the original bill in dispute".

14.2 The dissolution of Parliament in the United Kingdom should also be viewed in context. It is initiated by Members of Parliament moving a confidence motion and is a necessary step towards the formation of a new Government. In Hong Kong, only the Chief Executive of the HKSAR has the power to dissolve the Legislative Council under Article 50 of the Basic Law. Again, under Article 52(3) of the Basic Law, the dissolution of the Legislative Council shall lead to the resignation of the Chief Executive of the HKSAR if the new Legislative Council still refuses to pass the original bill in dispute.

## Appendix I

**Engagement of Government Responsibility and Censure Motions applying Article 49 of the Constitution of the Fifth French Republic (1974 to 2001)<sup>24</sup>**

**1. Government of Jacques Chirac (27 May 1974 - 25 August 1976)**

**Engagement of Responsibility  
(applying Article 49(1) and (3) of the Constitution)**

Date of engagement of responsibility	Subject	For	Against
06-06-1974	General policy of the Government	297	181

**Censure Motions  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)**

Date of vote	Subject	Required majority	Number of votes
17-12-1974	Economic and social policy	246	183
09-04-1975	Economic and social policy	246	183

**2. First Government of Raymond Barre (25 August 1976 - 29 March 1977)**

**Engagement of Responsibility  
(applying Article 49(1) and (3) of the Constitution)**

Date of engagement of responsibility	Subject	For	Against
15-10-1976	Rectifying Finance Law for 1976	A censure motion was presented	

<sup>24</sup> Statistics for the period between May 1974 and May 1995 are official statistics downloaded from the official website of the National Assembly at <http://www.assemblee-nationale.fr>. Translation was kindly undertaken by Madame Natacha Riser. Statistics for the period between May 1995 and February 2001 were compiled with information sourced from Lexis-Nexis and Dow Jones Interactive databases.

**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

Date of vote	Subject	Required majority	Number of votes
19-10-1976	Rectifying Finance Law for 1976	242	181

**3. Second Government of Raymond Barre (29 March 1977-31 March 1978)**

**Engagement of Responsibility**  
(applying Article 49(1) and (3) of the Constitution)

Date of engagement of responsibility	Subject	For	Against
28-04-1977	Government programme	271	186
15-06-1977	Election of the members of the European Assembly by universal suffrage	The Government bill was considered passed in the absence of the presentation of a censure motion	

**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

Date of vote	Subject	Required majority	Number of votes
	None		

#### 4. Third Government of Raymond Barre (3 April 1978 - 13 May 1981)

##### Engagement of Responsibility (applying Article 49(1) and (3) of the Constitution)

Date of engagement of responsibility	Subject	For	Against
20-04-1978	General policy of the Government	260	197
16-11-1979	Finance Law for 1980	A censure motion was presented	
03-12-1979	Financing of the Social Security (1 <sup>st</sup> reading)	A censure motion was presented	
13-12-1979	Finance Law for 1980 (as drafted by a Joint Committee, i.e. National Assembly together with the Senate)	A censure motion was presented	
20-12-1979	Financing of the Social Security System (as drafted by the Joint Committee)	A censure motion was presented	
07-01-1980	Finance Law for 1980 (2 <sup>nd</sup> bill on the 1 <sup>st</sup> part)	A censure motion was presented	
09-01-1980	Finance Law for 1980 (2 <sup>nd</sup> bill, 2nd part and the whole)	A censure motion was presented	

**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

<b>Date of vote</b>	<b>Subject</b>	<b>Required majority</b>	<b>Number of votes</b>
04-10-1978	Economic and social policy	246	199
16-02-1979	Economic and social and European policy	246	86
16-03-1979	Economic and social policy	246	200
20-11-1979	Finance Law for 1980	246	201
07-12-1979	General policy	246	202
20-11-1979	Financing of the Social Security System (1 <sup>st</sup> reading)	246	200
17-12-1979	Finance Law for 1980 (as drafted by a Joint Committee)	246	197
20-12-1979	Installation of American nuclear rockets in Europe	246	86
22-12-1979	Financing of the Social Security System (as drafted by the Joint Committee)	246	191
09-01-1980	Finance Law for 1980 (2 <sup>nd</sup> bill, 1 <sup>st</sup> part)	246	202
11-01-1980	Finance Law for 1980 (2 <sup>nd</sup> bill, 2nd part and the whole)	246	192
27-02-1980	Economic policy	246	199
27-02-1980	Economic policy	246	199

## 5. First Government of Pierre Mauroy (21 May 1981 - 22 June 1981)

### Engagement of Responsibility (applying Article 49(1) and (3) of the Constitution)

Date of engagement of responsibility	Subject	For	Against
	None		

### Censure Motions (applying Article 49(2) and (3) of the Constitution) (no confidence votes)

Date of vote	Subject	Required majority	Number of votes
	None		

## 6. Second Government of Pierre Mauroy (22 June 1981 - 22 March 1983)

### Engagement of Responsibility (applying Article 49(1) and (3) of the Constitution)

Date of engagement of responsibility	Subject	For	Against
09-07-1981	General policy of the Government	302	147
07-10-1981	Energy programme	333	67
26-01-1982	Nationalizations (2 <sup>nd</sup> bill)	A censure motion was presented	
23-06-1982	Economic programme	329	157
24-06-1982	Prices and earnings (1 <sup>st</sup> reading)	A censure motion was presented	
09-07-1982	Prices and earnings (2 <sup>nd</sup> reading)	A censure motion was presented	
13-07-1982	Prices and earnings (3 <sup>rd</sup> reading)	A censure motion was presented	
23-11-1982	Events in North Africa (2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	

**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

Date of vote	Subject	Required majority	Number of votes
15-09-1981	Economic and social policy	246	154
12-10-1981	Economic, monetary and social policy	246	151
16-12-1981	Economic and social policy	244	151
28-01-1982	Nationalizations (2 <sup>nd</sup> bill)	246	154
23-06-1982	Economic, monetary and social policy	246	157
28-06-1982	Prices and earnings (1 <sup>st</sup> reading)	246	138
12-07-1982	Prices and earnings (2 <sup>nd</sup> reading)	245	146
20-07-1982	Prices and earnings (2 <sup>nd</sup> reading)	245	155
24-11-1982	Military policy	246	154

**7. Third Government of Pierre Mauroy (22 March 1983 - 17 July 1984)**

**Engagement of Responsibility**  
(applying Article 49(1) and (3) of the Constitution)

Date of engagement of responsibility	Subject	For	Against
06-04-1983	General policy of the Government	323	155
19-04-1984	General policy of the Government	329	156
22-05-1984	Private education	A censure motion was presented	
05-07-1984	Law on the press (2 <sup>nd</sup> reading)	A censure motion was presented	

**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

Date of vote	Subject	Required majority	Number of votes
12-10-1983	General policy of the Government	245	156
14-12-1983	Government bill on the press	245	158
24-05-1984	Private education	246	159
10-07-1984	Law on the press (2 <sup>nd</sup> reading)	246	159

**8. Government of Laurent Fabius (17 July 1984 - 20 March 1986)**

**Engagement of Responsibility**  
(applying Article 49(1) and (3) of the Constitution)

Date of engagement of responsibility	Subject	For	Against
24-07-1984	General policy of the Government	279	157
07-09-1984	Law on the press (3 <sup>rd</sup> reading)	A censure motion was presented	
11-12-1985	Law on working time (1 <sup>st</sup> reading)	The bill was considered passed in the absence of a censure motion	
12-02-1986	Law on working time (2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
27-02-1986	Law on working time (3 <sup>rd</sup> reading)	The bill was considered passed in the absence of a censure motion	

**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

Date of vote	Subject	Required majority	Number of votes
10-09-1984	Law on the press (3 <sup>rd</sup> reading)	246	105
24-04-1985	Electoral reform (election of Members to the National Assembly)	246	160



## 9. Government of Jacques Chirac (20 March 1986 - 10 May 1988)

### Engagement of Responsibility (applying Article 49(1) and (3) of the Constitution)

Date of engagement of responsibility	Subject	For	Against
09-04-1986	General policy of the Government	292	285
13-05-1986	Economic and social layout of entitlements	A censure motion was presented	
20-05-1986	Return of majority vote (as opposed to proportional vote)	A censure motion was presented	
28-05-1986	Rectifying Finance Law for 1986	A censure motion was presented	
24-07-1986	Privatizations	A censure motion was presented	
05-08-1986	Freedom of communication	A censure motion was presented	
10-10-1986	Electoral circumscriptions	A censure motion was presented	
22-10-1986	Electoral circumscriptions (as drafted by the Joint Committee)	The bill was considered passed in the absence of a censure motion	
07-04-1987	General policy of the Government	294	282
20-05-1987	Fitting out of working time (1 <sup>st</sup> reading)	A censure motion was presented	

**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

<b>Date of vote</b>	<b>Subject</b>	<b>Required majority</b>	<b>Number of votes</b>
16-05-1986	Economic and social layout of entitlements	289	251
22-05-1986	Return of majority vote (as opposed to proportional vote)	289	284
02-06-1986	Rectifying Finance Law for 1986	289	251
11-06-1986	Suppression of the administrative authorization for dismissal	289	251
28-07-1986	Privatizations	284	245
08-08-1986	Freedom of communication	284	234
13-10-1986	Electoral circumscriptions	288	281
26-05-1987	Fitting out of working time (1 <sup>st</sup> reading)	289	250

**10. First Government of Michel Rocard (10 May 1988 - 22 June 1988)**

**Engagement of Responsibility**  
**(applying Article 49(1) and (3) of the Constitution)**

Date of engagement of responsibility	Subject	For	Against
	None		

**Censure Motions**  
**(applying Article 49(2) and (3) of the Constitution) (no confidence votes)**

Date of vote	Subject	Required majority	Number of votes
	None		

**11. Second Government of Michel Rocard (23 June 1988 - 16 May 1991)****Engagement of Responsibility  
(applying Article 49(1) and (3) of the Constitution)**

<b>Date of engagement of responsibility</b>	<b>Subject</b>	<b>For</b>	<b>Against</b>
15-12-1988	Freedom of communication (2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
21-12-1988	Freedom of communication (3 <sup>rd</sup> reading)	The bill was considered passed in the absence of a censure motion	
28-04-1989	10 <sup>th</sup> Plan (1989-1992)	The bill was considered passed in the absence of a censure motion	
19-06-1989	Audiovisual (common presidency for A2-FR3)(1 <sup>st</sup> reading)	The bill was considered passed in the absence of a censure motion	
01-07-1989	Audiovisual (common presidency for A2-FR3)(2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
04-10-1989	Military programme (1990-1993)(1 <sup>st</sup> reading)	A censure motion was presented	
20-10-1989	Finance Law for 1990 (1 <sup>st</sup> part)	A censure motion was presented	
16-11-1989	Finance Law for 1990 (2 <sup>nd</sup> part and whole)	A censure motion was presented	
27-11-1989	Military programme (1990-1993) (2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
01-12-1989	Various provisions on social security and health (1 <sup>st</sup> reading)	The bill was considered passed in the absence of a censure motion	
06-12-1989	Rectifying Finance Law for 1989	The bill was considered passed in the absence of a censure motion	
14-12-1989	Finance Law for 1990 (1 <sup>st</sup> part, 2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
15-12-1989	Military programme (1990-1993)(3 <sup>rd</sup> reading)	The bill was considered passed in the absence of a censure motion	
15-12-1989	Various provisions on social security and health (2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
15-12-1989	Finance Law for 1990 (2 <sup>nd</sup> part and whole, 2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	

**Engagement of Responsibility**  
**(applying Article 49(1) and (3) of the Constitution)** **cont'd**

<b>Date of engagement of responsibility</b>	<b>Subject</b>	<b>For</b>	<b>Against</b>
19-12-1989	Various provisions on social security and health (3 <sup>rd</sup> reading)	A censure motion was presented	
20-12-1989	Rectifying Finance Law for 1989 (2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
28-04-1990	Status of the Renault Company	The bill was considered passed in the absence of a censure motion	
15-11-1990	Finance Law for 1990 - Articles 92 to 99 of C.S.G.	A censure motion was presented	
20-11-1990	Finance Law for 1991 (whole, 1 <sup>st</sup> reading)	The bill was considered passed in the absence of a censure motion	
04-12-1990	Rectifying Finance Law for 1990	The bill was considered passed in the absence of a censure motion	
07-12-1990	Various provisions on social security and health (1 <sup>st</sup> reading)	The bill was considered passed in the absence of a censure motion	
14-12-1990	Finance Law for 1991 (2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
18-12-1990	Finance Law for 1991 (3 <sup>rd</sup> reading)	The bill was considered passed in the absence of a censure motion	
18-12-1990	Various provisions on social security and health (2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
20-12-1990	Various provisions on social security and health (3 <sup>rd</sup> reading)	The bill was considered passed in the absence of a censure motion	
16-01-1991	Policy in the Middle East	523	43
29-4-1991	Hospital reform	The bill was considered passed in the absence of a censure motion	

**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

<b>Date of vote</b>	<b>Subject</b>	<b>Required majority</b>	<b>Number of votes</b>
09-12-1988	General policy of the Government	286	258
16-05-1989	European policy	289	192
06-06-1989	Government bill on foreigners	289	264
09-10-1989	Military programme (1990-1993)	288	159
23-10-1989	Finance Law for 1990 (1 <sup>st</sup> part)	288	240
20-11-1989	Finance Law for 1990 (2 <sup>nd</sup> part and whole)	288	254
21-12-1989	Various provisions on social security and health (3 <sup>rd</sup> reading)	289	265
09-05-1990	Amnesty laws	289	262
19-11-1990	Finance Law for 1991 (whole, 1 <sup>st</sup> reading)	289	284
21-12-1990	General policy	288	218
11-04-1991	General policy	289	261

**12. Government of Edith Cresson (17 May 1991 -2 April 1992)****Engagement of Responsibility  
(applying Article 49(1) and (3) of the Constitution)**

<b>Date of engagement of responsibility</b>	<b>Subject</b>	<b>For</b>	<b>Against</b>
12-06-1991	Various economic and financial provisions (1 <sup>st</sup> reading)	A censure motion was presented	
28-06-1991	Various economic and financial provisions (2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	
03-07-1991	Various economic and financial provisions (3 <sup>rd</sup> reading)	The bill was considered passed in the absence of a censure motion	
05-10-1991	Drug agency	The bill was considered passed in the absence of a censure motion	
18-10-1991	Finance Law for 1992 (1 <sup>st</sup> part, 1 <sup>st</sup> reading)	The bill was considered passed in the absence of a censure motion	
15-11-1991	Finance Law for 1992 (2 <sup>nd</sup> part and whole, 1 <sup>st</sup> reading)	A censure motion was presented	
05-12-1991	Rectifying Finance Law for 1991	The bill was considered passed in the absence of a censure motion	
13-12-1991	Finance Law for 1992 (2 <sup>nd</sup> part and whole, 2 <sup>nd</sup> reading)	The bill was considered passed in the absence of a censure motion	

**Censure Motions****(applying Article 49(2) and (3) of the Constitution) (no confidence votes)**

<b>Date of vote</b>	<b>Subject</b>	<b>Required majority</b>	<b>Number of votes</b>
17-06-1991	Various economic and financial provisions (1 <sup>st</sup> reading)	289	265
24-10-1991	Economic policy	289	264
18-11-1991	Finance Law for 1992 (2 <sup>nd</sup> part and whole, 1 <sup>st</sup> reading)	289	264
11-02-1992	General policy of the Government	289	261

**13. Government of Pierre Bérégovoy (3 April 1992 - 29 March 1993)****Engagement of Responsibility  
(applying Article 49(1) and (3) of the Constitution)**

<b>Date of engagement of responsibility</b>	<b>Subject</b>	<b>For</b>	<b>Against</b>
05-06-1992	Doctors and sickness insurance (1 <sup>st</sup> reading)	The bill was considered passed in the absence of a censure motion	
18-11-1992	Finance Law for 1993 (2 <sup>nd</sup> part and whole, 1 <sup>st</sup> reading)	A censure motion was presented	
25-11-1992	GATT negotiations	301	251
10-12-1992	Funds for the single elderly	The bill was considered passed in the absence of a censure motion	

**Censure Motions  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)**

<b>Date of vote</b>	<b>Subject</b>	<b>Required majority</b>	<b>Number of votes</b>
01-06-1992	Agricultural policy	289	286
26-10-1992	Government Finance Bill for 1993	286	261
23-11-1992	Finance Law for 1993 (2 <sup>nd</sup> part and whole, 1 <sup>st</sup> reading)	286	257

**14. Government of Édouard Balladur (29 March 1993 -11 May 1995)****Engagement of Responsibility  
(applying Article 49(1) and (3) of the Constitution)**

<b>Date of engagement of responsibility</b>	<b>Subject</b>	<b>For</b>	<b>Against</b>
08-04-1993	General policy of the Government	457	81
30-06-1993	Privatization	A censure motion was presented	
15-12-1993	GATT negotiations	466	90



**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

Date of vote	Subject	Required majority	Number of votes
05-07-1993	Privatization	289	87
13-04-1994	General policy of the Government	289	87

**15. Government of Alain Juppé (11 May 1995 - 22 May 1997)**

**Engagement of Responsibility**  
(applying Article 49(1) and (3) of the Constitution)

Date of engagement of responsibility	Subject	For	Against
06-12-1995	Social security reform (1 <sup>st</sup> reading)	A censure motion was presented	
12-12-1995	Social security reform (2 <sup>nd</sup> reading)	A censure motion was presented	

**Censure Motions**  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)

Date of vote	Subject	Required majority	Number of votes
06-12-1995	Social security reform (1 <sup>st</sup> reading)	289	87
12-12-1995	Social security reform (2 <sup>nd</sup> reading)	289	Insufficient*

*Note:*

\* Specific statistics on this censure motion have not been available from official sources. We confirmed from news reports (Agence France Presse) that the censure motion was defeated "easily".

**16. Government of Lionel Jospin (22 May 1997 - date of this research study  
i.e. February 2001)**

**Engagement of Responsibility  
(applying Article 49(1) and (3) of the Constitution)**

<b>Date of engagement of responsibility</b>	<b>Subject</b>	<b>For</b>	<b>Against</b>
19 June 1997	General policy of the Government	297	252

**Censure Motions  
(applying Article 49(2) and (3) of the Constitution) (no confidence votes)**

<b>Date of vote</b>	<b>Subject</b>	<b>Required majority</b>	<b>Number of votes</b>
29-04-1998	European Monetary Union	289	142
25-05-1999	Corsica	289	252

**Appendix II****List of Confidence Motions**  
(extracted from Research Paper 95/19 of House of Commons Library)

The following lists provide details of the four confidence defeats since 1895 discussed above, as well as details of confidence motions debated since 1945, extracted from Hansard, and secondary sources such as Butler & Butler *British political facts 1900 - 1994*, p186.

**1. Government Defeats on Confidence Motions Since 1895**

- |                             |   |
|-----------------------------|---|
| 21 June 1895<br>(Friday)    | That Item A be reduced by £100, in respect of the salary of the Secretary of State.<br><i>(Opposition motion carried 132-125)</i><br>[Parl Deb vol 34 cc1673-1712]<br>Motion to reduce salary of Secretary of State for War; Leader of the House, Harcourt, announced Government's resignation 24 June, cc1746-9.   |
| 21 January 1924<br>(Monday) | ... but it is our duty respectfully to submit to Your Majesty that Your Majesty's present advisers have not the confidence of the House.<br><i>(Opposition amendment approved 328-256; amended motion carried 328-251)</i><br>[HC Deb vol 169 cc673-686 (divisions)]<br>Opposition amendment to Loyal Address; PM, Baldwin, announced the Government's resignation 22 January cc703-7 |

8 October 1924  
(Wednesday)

That the conduct of His Majesty's Government in relation to the institution and subsequent withdrawal of criminal proceedings against the editor of the *'Workers' Weekly'* is deserving of the censure of this House.

*(Opposition motion defeated 198-359)*

... a Select Committee be appointed to investigate and report upon the circumstances leading up to the withdrawal of the proceedings recently instituted by the Director of Public Prosecutions against Mr. Campbell.

*(Further Opposition amendment from the Liberals approved 364-198; amended motion carried without a division)*

[HC Deb vol 177 cc581-704]

'Campbell case', withdrawal by Government of sedition case against *Workers' Weekly*; PM, MacDonald, declared issue a matter of confidence, c638. Dissolution 9 October.

28 March 1979  
(Wednesday)

That this House has no confidence in Her Majesty's Government.

*(Opposition motion carried 311-310)*

[HC Deb vol 965 cc461-590]

aftermath of devolution referenda; PM, Callaghan, immediately announced intention to seek dissolution the next day, c589

## 2. Confidence Motion Since 1945

This list contains information on the date(s) and day(s) of each debate; the terms of each motion and divisions thereon; the reason for the debate, if not clear from the terms of the motion(s); the Hansard references, and (for Commons debates) whether and where the Prime Minister ('PM') and/or the Leader of the Opposition ('LOpp') spoke.

5 & 6 December 1945  
(Wednesday/Thursday)

That this House regrets that His Majesty's Government are neglecting their first duty, namely, to concentrate with full energy upon the most urgent and essential tasks of the re-conversion of our industries from war-time production to that of peace, the provisions of houses, the speedy release of men and women from the Forces to industry, and the drastic curtailment of our swollen national expenditure and deplores the pre-occupation of His Majesty's Ministers, impelled by socialist theory, with the formulation of long-term schemes for nationalization creating uncertainty over the whole field of industrial and economic activity, in direct opposition to the best interest of the nation, which demands food, work and homes.

*(Opposition motion defeated 197-381)*

[HC Deb vol 416 cc2334-2454, 2530-2644]

- following Leader of the House's refusal to allow a full debate on the statement of 19 November setting out the legislative programme for nationalization.
- LOpp, Churchill, opened 2<sup>nd</sup> day; PM, Attlee, responded.

4 December 1952  
(Thursday)

That this House regrets that Her Majesty's Government is dealing with the Business of the House incompetently, unfairly and in defiance of the best principles of Parliamentary democracy and the national interest, and records the view that this is in part brought about by the efforts of Ministers to force through measures, unrelated to the needs of the nation, for which they have no adequate support in Parliament or the country.

*(Opposition motion defeated 280-304)*

[HC Deb vol 508 cc1783-1892]

- following the interruption of the debate on the Second Reading of the Iron and Steel Bill by an emergency debate on Kenya, and by the House being counted out on 21 November.
- LOpp, Attlee, opened; PM, Churchill, responded.

1 November 1956  
(Thursday)

That this House deplores the action of Her Majesty's Government in resorting to armed force against Egypt in clear violation of the United Nations Charter, thereby affronting the convictions of a large section of the British people, dividing the Commonwealth, straining the Atlantic Alliance, and gravely damaging the foundations of international order.

*(Opposition motion defeated 255-324)*

... approves of the prompt action taken by Her Majesty's Government designed to bring hostilities between Israel and Egypt to an end and to safeguard vital international and national interests, and pledges its full support for all steps necessary to secure these ends.

*(Government amendment approved 323-255; amended motion carried 320-253)*

[HC Deb vol 558 cc1631-1744]

- PM, Eden, responded to opening speech.
- LOpp, Gaitskell, did not speak.

5 & 6 December 1956  
(Wednesday/Thursday)

That this House supports the policy of Her Majesty's Government as outlined by the Foreign Secretary of 3<sup>rd</sup> December, which has prevented hostilities in the Middle East from spreading, has resulted in a United Nations Force being introduced into the area, and has created conditions under which progress can be made towards the peaceful settlement of outstanding issues.  
*(Government motion carried 312-260)*

... recognizing the disastrous consequences of Her Majesty's Government's policy in the Middle East, calls upon Her Majesty's Government to take all possible steps to restore Commonwealth unity, recreate confidence between our allies and ourselves and strengthen the authority of the United Nations as the only way to achieve a lasting settlement in the Middle East.

*(Opposition amendment defeated 260-327)*  
[HC Deb vol 561 cc1254-1379, 1453-1586]

- Front-bench speakers referred to 'censure' and 'confidence' during debate.
- LOpp, Gaitskell, wound up; PM, Eden, was ill.

5 February 1962  
(Monday)

That this House deplores the attack made upon the United Nations by the Secretary of State for Foreign Affairs in his speech at Berwick upon Tweed on 28 December 1961.

*(Opposition motion defeated 228-326)*  
[HC Deb vol 653 cc32-172]

- regarded as censure motion by PM and Leader of Opposition.
- LOpp, Gaitskell, opened; PM, Macmillan, responded.

- 26 July 1962  
(Thursday)
- That this House declares that Her Majesty's Government no longer enjoys the confidence of the country, and accordingly calls upon the Prime Minister to advise Her Majesty to dissolve Parliament so that a General Election can be held.  
*(Opposition motion defeated 253-351)*  
[HC Deb vol 663 cc1735-1868]
- following the major Cabinet reshuffle, involving removal of seven Ministers, on 13 July.
  - LOpp, Gaitskell, opened; PM, Macmillan, responded.
- 10 November 1964  
(Tuesday)
- ... but have no confidence that Your Majesty's Ministers can implement their proposals without damaging the programmes of modernization already in train and thus imperilling the future well-being of Your People.  
*(Opposition amendment to Loyal Address defeated 294-315)*  
[HC Deb vol 701 cc969-974 (division)]
- neither PM, Wilson, nor LOpp, Douglas-Home, spoke in the final day of debate, when motion was moved.
- 2 February 1965  
(Tuesday)
- That this House deplores the hasty and ill-considered actions of Her Majesty's Government during their first hundred days of office and has no confidence in their ability to conduct the nation's affairs.  
*(Opposition motion defeated 289-306)*
- ... [deplores] the irresponsibility of the former administration leading to the serious situation which confronted Her Majesty's Government, and pledges its support for remedial measures to strengthen the country's economy and security and provide rising standards for the British people.
- (Government amendment approved 306-289; amended motion carried without a division)*  
[HC Deb vol 705 cc897-1030]
- LOpp, Douglas-Home, opened; PM, Wilson, responded.



- 2 August 1965  
(Monday)
- That this House has no confidence in Her Majesty's Government and deplores the Prime Minister's conduct of the nation's affairs.  
(*Opposition motion defeated 290-303*)  
[HC Deb vol 717 cc1070-1202]
- following the Chancellor's economic statement of 27 July.
  - LOpp, Heath, opened; PM, Wilson, wound up.
- 26 & 27 July 1966  
(Tuesday/Wednesday)
- That this House has no confidence in the competence of Her Majesty's Government to manage the economic affairs of the nation.  
(*Opposition motion defeated 246-325*)  
[HC Deb vol 732 cc1449-1580, 1725-1858]
- following the emergency economic measures of 20 July.
  - LOpp, Heath, opened; PM, Wilson, opened day 2.
- 1 December 1966  
(Thursday)
- That this House has no confidence in the economic policies of Her Majesty's Government.  
(*Opposition motion defeated 246-329*)  
[HC Deb vol 737 cc642-768]
- LOpp, Heath, opened; PM, Wilson, did not speak.
- 24 July 1967  
(Monday)
- That this House has no confidence in the economic policies of Her Majesty's Government.  
(*Opposition motion defeated 240-333*)  
[HC Deb vol 751 cc68-196]
- LOpp, Heath, wound up; PM, Wilson, did not speak.

- 15 - 17 February 1972  
(Tuesday/Wednesday/  
Thursday)
- That the [European Communities] Bill be now read a second time.  
(*Government motion carried 309-301*)  
[HC Deb vol 831 cc264-376, 443-552, 629-758]
- 2R of European Communities Bill 1971-72; expressly treated by PM, Heath, as issue of confidence (c752)
  - LOpp, Wilson, opened day 3; PM, Heath, wound up.
- 6 March 1972  
(Monday)
- That this House condemns the action of Her Majesty's Government in framing its European Communities Bill with the intention of removing the possibility of substantial amendment; and considers this to be a gross breach of faith in the light of undertakings previously given that the Bill and the Treaties could be fully discussed.  
(*Opposition motion defeated 270-317*)  
[HC Deb vol 832 cc1041-1170]
- Neither PM, Heath, nor LOpp, Wilson, spoke.
- 19 November 1973  
(Monday)
- That this House has no confidence in Her Majesty's Government's management of the economy.  
(*Opposition motion defeated 286-304*)  
[HC Deb vol 864 cc956-1092]
- following the announcement of a state of emergency on 13 November.
  - LOpp, Wilson, opened; PM, Heath, responded.
- 11 March 1976  
(Thursday)
- That this House do now adjourn.  
(*Government motion voted down, i.e. Government victory, 280-297*)  
[HC Deb vol 907 cc634-758]
- following the Government's defeat the previous day on its public expenditure White Paper. Expressly treated as confidence motion by PM, Wilson, c634.
  - PM, Wilson opened; LOpp, Thatcher, responded.

- 9 June 1976  
(Wednesday)
- That this House has no confidence in Her Majesty's Government.  
(*Opposition motion defeated 290-309*)  
[HC Deb vol 912 cc1445-1566]
- following the Chancellor's statement on 7 June announcing measures to stabilize the pound.
  - LOpp, Thatcher, opened; PM, Callaghan, responded.
- 23 March 1977  
(Wednesday)
- That this House has no confidence in Her Majesty's Government.  
(*Opposition motion defeated 298-322*)  
[HC Deb vol 928 cc1285-1418]
- following the Government's defeat on its public expenditure plans (17 March, 0-293) and the formation of the 'Lib-Lab pact'.
  - LOpp, Thatcher, opened; PM, Callaghan, responded.
- 20 July 1977  
(Wednesday)
- That this House do now adjourn.  
(*Government motion voted down, i.e. Government victory, 282-312*)  
[HC Deb vol 935 cc1606-1704]
- following the Chancellor's statement on counter-inflation policy on 15 July. Referred to as confidence motion by Leader of the Opposition, Thatcher, c1637, and by other frontbenchers.
  - PM, Callaghan, opened; LOpp, Thatcher, responded.

- 14 December 1978  
(Thursday)
- That this House expresses its confidence in Her Majesty's Government and in its determination to strengthen the national economy, control inflation, reduce unemployment and secure social justice.  
(*Government motion carried 300-290*)  
[HC Deb vol 960 cc920-1049]
- following a defeat on 13 December on sanctions to enforce the Government's counter-inflation policy.
  - PM, Callaghan, opened; LOpp, Thatcher, responded.
- 28 March 1979  
(Wednesday)
- That this House has no confidence in Her Majesty's Government.  
(*Opposition motion carried 311-310: Government resigned*)  
[HC Deb vol 965 cc461-590]
- following the result of the devolution referenda
  - LOpp, Thatcher, opened; PM, Callaghan, responded.
- 28 February 1980  
(Thursday)
- That this House has no confidence in the economic and industrial policies of Her Majesty's Government.  
(*Opposition motion defeated 268-327*)  
[HC Deb vol 979 cc1580-1704]
- LOpp, Callaghan, opened; PM, Thatcher, responded.
- 29 July 1980  
(Tuesday)
- That this House has no confidence in Her Majesty's Government, whose economic and social policies are spreading mass unemployment, undermining British industry and demoralizing the country.  
(*Opposition motion defeated 274-333*)  
[HC Deb vol 989 cc1288-1422]
- LOpp, Callaghan, opened; PM, Thatcher, responded.

27 July 1981  
(Monday)

That this House has no confidence in Her Majesty's Government, whose economic and social policies are spreading mass unemployment, undermining British industry and demoralizing the country  
(*Opposition motion defeated 262-334*)  
[HC Deb vol 9 cc820-910]

- LOpp, Foot, opened; PM, Thatcher, responded.

28 October 1981  
(Wednesday)

That this House has no confidence in the economic policies of Her Majesty's Government which have pushed the registered total of unemployed people to shameful levels, have dealt a series of most damaging blows to British industry, and offer no hope of recovery; and calls upon Her Majesty's Government to present to Parliament before the end of the year a range of fresh measures designed to reverse the present disastrous trends.  
(*Opposition motion defeated 210-312*)  
[HC Deb vol 10 cc872-964]

- LOpp, Foot, opened; PM, Thatcher, responded.

31 January 1985  
(Thursday)

That this House censures Her Majesty's Government for its gross mismanagement of the British economy which has led to the highest real interest rates, the worst manufacturing trade deficit and the highest level of unemployment in the history of Great Britain.

... supports Her Majesty's Government in its firm action to maintain the sound financial conditions and medium-term strategy which have brought about the lowest level of inflation since the 1960s, nearly four years of sustained economic growth, record output, sound exports, record investment and record living standards, and which provide the best long-term prospects for fundamental improvement in the performance of the British economy and for the creating of new jobs.

(*Government amendment approved 395-222; amended motion carried 392-221*)  
[HC Deb vol 72 cc418-510]

- LOpp, Kinnock, opened; PM, Thatcher, responded.

- 22 November 1990  
(Thursday)
- That this House has no confidence in Her Majesty's Government.  
*(Opposition motion defeated 247-367)*  
[HC Deb vol 181 cc439-518]
- following the Prime Minister's failure to secure re-election as Party Leader on the first ballot.
  - LOpp, Kinnock, opened; PM, Thatcher, responded.
- 27 March 1991  
(Wednesday)
- That this House has no confidence in Her Majesty's Government in the light of its inability to rectify the damage done to the British people by the poll tax.  
*(Opposition motion defeated 238-358)*  
[HC Deb vol 188 cc964-1053]
- LOpp, Kinnock, opened; PM, Major, responded.
- 24 September 1992  
(Thursday)
- That this House expresses its support for the economic policy of Her Majesty's Government.  
*(Government motion carried 322-296)*
- ... condemns the total collapse of Government's entire economic policy following their humiliating withdrawal of the pound from the European Exchange Rate Mechanism; deplores the Government's failed economic policies which have thrown the United Kingdom economy into a deep and damaging recession which has made it weak and vulnerable to speculative attack; believes that the Government's credibility and claims of economic competence are in tatters; demands the adoption of an economic policy which reduces unemployment and recognizes that strong economy can only be built by consistent investment in manufacturing industry and the infrastructure, by a sustained commitment to an expansion of training, the stimulation of innovation, technology, and regional development and by international co-operation for economic expansion; and firmly opposes cuts in public expenditure which will prolong the recession, increase unemployment, and weaken the United Kingdom's vital public services.  
*(Opposition motion defeated 288-330)*  
[HC Deb vol 212 cc2-116]
- PM, Major, opened; LOpp, Smith, responded.

- 23 July 1993  
(Friday)
- That this House has confidence in the policy of Her Majesty's Government on the adoption of the Protocol on Social Policy.  
(*Government motion carried 339-299*)  
[HC Deb vol 229 cc627-725]
- following the Government's defeat the previous day on the Maastricht Treaty Social Chapter. This is the only confidence debate on a Friday in the period since 1945.
  - PM, Major, opened; LOpp, Smith, responded.
- 1 December 1993  
(Wednesday)
- That this House has no confidence in the policies of Her Majesty's Government.  
(*Opposition motion defeated 95-282*)  
[HC Deb vol 550 cc544-554, 571-635]
- the only modern example of a confidence motion in the House of Lords.
- 28 November 1994  
(Monday)
- That the [European Communities (Finance)] Bill now be read a second time.  
(*Government motion carried 329-44*)
- ... this House believes that the European Communities (Finance) Bill is not an acceptable measure as it increases United Kingdom contributions to the European Union without action by Her Majesty's Government to cut fraud and waste in Europe or to reduce expenditure on the Common Agricultural Policy.  
(*Opposition amendment defeated 303-330*)  
[HC Deb vol 250 cc932-1034]
- PM, Major, made passage of Bill "in all its essentials" an issue of confidence, which may have made some or all of the 4 votes in Committee of the Whole House, and the third reading vote, all on 7 December, also confidence occasions [HC Deb vol 251 cc327-447, 7.12.94]. Note that the Opposition abstained, and the PM did not vote, on third reading.
  - Neither PM, Major, nor LOpp, Blair, spoke in the debate.

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