

# THE HOUSE OF COMMONS IN EMBRYO? 1265 PARLIAMENT OF SIMON DE MONTFORT

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## ABSTRACT

Though the view that the thirteenth century parliament can be regarded as an institution or mechanism of the same quality as the modern parliament, may remain common in popular thought, this traditional view has been criticised and revised, and is no longer held with academic as it is. However, Simon de Montfort's summon of knights and burgesses to parliament is still regarded as the origins of the Commons by some of the contemporary academic researchers. After the close reading of two documents: *Forma Regiminis* of June 1264 and King's statement of 14th of March 1265, this paper concludes that the summoned knights were only witness, that Simon de Montfort did not consider the knights and burgesses as members of parliament, and that there is no evidence of knights and burgesses being granted voting rights. Those knights were summoned because Simon did not gain approval of new governmental system from either French King or the Pope, and therefore turned to the inhabitants of the kingdom of England: the county knights and burgesses. The de Montfort's Parliament of 1265 cannot be the House of Commons in Embryo.

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The parliament to which Simon de Montfort summoned county knights and burgesses of boroughs in 1265 is believed to be the origin of the House of Commons of the British parliament<sup>[1]</sup> in popular thought. However, can the 13th century parliament be regarded as an institution or mechanism of the same quality as the modern parliament? The reality of the parliament of 1265, which was summoned in the midst of a conflict between the king and the secular magnates over the governance of the realm, needs to be examined in a historical perspective.<sup>[2]</sup>

In 2010 John Maddicott stressed the importance of Simon's summoning of knights and burgesses to his parliament of 1265 in his authoritative work of the origin of English Parliament as follows: There is thus a reasonable presumption that knights appeared in parliament both as defenders of the local interests, which the Provisions of Westminster represented and as petitioners, to whom the government was prepared to lend a sympathetic ear.<sup>[3]</sup> In 2012 Adrian Jobson wrote as follows: The Hilary parliament was probably the first instance of the representatives from the towns participating in parliamentary business. This was a significant achievement by Montfort, as

[1] For the present explanation of Simon de Montfort's parliament given by the web-page of the UK parliament consult the following URL: <http://www.parliament.uk/about/living-heritage/evolutionofparliament/originofparliament/birthofparliament/simondemontfort/demontfortparliament/>

[2] For the recent works of revised as well as classic account of Simon's policy in summoning knights and burgesses to the parliament of 1265, see the following studies: Maddicott, J.R., *The Origins of the English Parliament, 924-1327*, Oxford, 2010, ch.5 (*Parliament* hereafter); Jobson, Adrian, *The First English Revolution Simon de Montfort, Henry III and the Barons' War*, London, 2012, pp.117-147 (*First*

*English Revolution* hereafter); Ambler, Sophie Thérèse, *The Song of Simon de Montfort*, London, 2019, chs. 13 and 14 (*Song of Simon* hereafter). Comments of these works, see the following article: 'A Survey of Recent Studies on Simon de Montfort', *Bulletin of Faculty of Letters, Kansai University*, 67-4, 2018, pp.23-50 (in Japanese). For the more traditional works, see Tilly, Christopher, 'Modern Historians and the Period of Reform and Rebellion, 1258-1265', in A. Jobson, *Baronial Reform and Revolution in England, 1258-1267*, Boydell, 2016, Woodbridge, pp.13-29.

[3] Maddicott, *Parliament*, p.259; Jobson, *The First English Revolution*, pp.132-33; Ambler, *Song of Simon*, p.295.

in making a 'tactical move' designed to win favour in the localities, he had unwittingly promoted the role of the commons in parliament and earned a reputation as one of the founders of parliamentary democracy. In 2019 Sophie Ambler wrote as follows: The major innovation, in the terms of Provisions and in the summons issued in December 1264, was to call knights when no tax was on the table: their role was solely to discuss the business of the kingdom. Are these historians' interpretations of summoning of knights and burgesses to Simon's parliament attested by persuasive evidence?

The parliament of January 1265 appears to have adjourned by mid-February after finishing discussion of two proposals: first, the ratification of the 'Form of Governance' approved by the parliament in June 1264, which was a provisional constitution from the 'Mise of Lewes' settlement drawn up following the battle of Lewes in May 1264; and second, in order to guarantee peace after the war, the specification of the conditions for releasing Prince Edward, who had been held hostage. The knights from each county were then sent home following this discussion.<sup>[4]</sup> However, prelates, earls and barons remained in London to discuss the details of the terms of Edward's release, with the final agreement of the parliament announced by King Henry III on the 14th of March. Edward and other hostages were then released, and the parliament was over.<sup>[5]</sup> Henry's statement of March the 14th made it clear that the new governmental system approved at the parliament of June of the previous year had been affirmed at the parliament of March, 1265, and that the king and the prince Edward had agreed to abide by the Great Charter, the Charter of the Forest, and the Provisions of Westminster.<sup>[6]</sup> In other words, it can be seen that what was newly agreed upon at this parliament was the specific terms of Edward's release, and the rest of the statement simply confirmed what had already been decided. The Great Charter, the Charter of the Forest, and the Provisions of Westminster had been reconfirmed several times during the reign of Henry III, so this was not a new matter. Edward had been held hostage as a temporary measure to maintain the new governmental system established in June of the previous year, 1264, but after the new governmental system was confirmed in the parliament of March 1265, there was no longer any need to keep hostages and he was released. Overall, it can be said that the most important matter for this parliament was the confirmation of the governmental system established in June of the previous year by the king and the other participants in the parliament.

What, then, was this new governmental system that involved? Did it involve not only the lords who had been previously summoned to parliaments but also the knights from each county and burgesses who were summoned for the first time to participate in discussion and decision-making? Were the summoned knights given voting right in the discussion of the business of the kingdom and did they exercise their own vote? Why were they let return home in the middle of the parliament? Does this instance represent an embryonic form of the House of Commons? Did the county knights and burgesses bring matters that were of concern to regional communities to the central government? Did the regional communities request that the king and Simon de Montfort, the earl of Leicester, summon those knights to parliaments? What was the intention of Simon in summoning those representatives to parliament? These are the some of the questions this article aims to answer.

[4] *Documents of the Baronial Movement of Reform and Rebellion 1258-1267*, Treharne, R.F., and Sanders, I.J., Oxford, 1973, pp.304-7 (*DBM* hereafter).

[5] *Close Rolls*, (*CR* hereafter) 1264-68, pp.108-9; Maddicott, John R., *Parliament*, p.261. On the 19th of March, 1265, a royal ordinance was issued ordering Marcher lords of Welsh frontier who had disobeyed royal orders to appear before the king at the next parliament. On 15th May it had also been decided that the next parliament would be held at Winchester on 1 June. *DBM*, pp.51-3. The following

works are referenced in this article. Powicke, F.M., *The Thirteenth Century*, Oxford, 1953, pp.197-8 (*13th Century* hereafter); Do., *King Henry III and Lord Edward*, Oxford, 1947, pp.488-9 (*King Henry* hereafter); Kido, Takeshi, *The Century of Magna Carta*, Tokyo, 1980 (*Magna Carta* hereafter), pp.153-4 (in Japanese)

[6] Edward promised to comply with the decision on 10 March. Maddicott, J. R., *Simon de Montfort*, Cambridge, 1994, pp.319-20 (*Simon* hereafter); *DBM*, pp.308-15.

## 1. ESTABLISHMENT AND FAILURE OF A CONGLOMERATIC GOVERNANCE OF MAGNATES

What was the new governmental system decided on at the parliament of June 1264? Let us trace the process leading to its formation. Previously, a governmental system based on the Provisions of Oxford, which had been agreed to in the parliament of June 1258, had been established and actually operated by agreement between the king and the earls and barons. The details are left to other sources,<sup>[7]</sup> but when it comes to the issues of the governmental structure debate of 1264, there is a question of who was entitled to exercise sovereignty over the kingdom. Was it the king alone or did it include leading magnates of the kingdom? There was a debate about which methods of exercising sovereignty should be adopted: whether the king alone should reign surrounded by his favourite courtiers or whether the king should make decisions based on the advice of the council (King's Council, a total of fifteen magnates). The latter method was adopted at the time of the reform movement in 1258.<sup>[8]</sup> This is the 'governmental system of the Provisions of Oxford' that existed before the establishment of Simon's new governmental system in 1264. It was only the leading magnates and kings' favourites who made up the council involved in the governance of the kingdom, and no people below the rank of baron were included.

Based on this governmental system, the council issued ordinances and writs jointly with the king, which continued until the end of 1260.<sup>[9]</sup> Henry III then applied to the pope to be released from his oath to abide by the Provisions of Oxford, and in May 1261, a letter of cancellation was sent to him by the pope.<sup>[10]</sup> The reformer magnates were divided over this, but the practice of the council issuing certificates with the king disappeared, and the situation returned to the old governmental system, as it was before April 1258, where the king ruled in consultation with his favourites. Simon de Montfort, one of the reformer magnates, left for France,<sup>[11]</sup> and Richard de Clare, earl of Gloucester, died suddenly in 1262.<sup>[12]</sup> The council thus ceased to function, and Henry began to issue writs and ordinances on his own.<sup>[13]</sup> All the 'bureaucrats' in this governmental system were the king's household officials, while the household officials of the reformer magnates could only govern their own territories and subordinates. Therefore, after his release from the oath in 1261, the king was able to re-exercise his sovereignty at will.

Before the reform movement of 1258, the magnates had been responsible for the management of their estates, using their own domestic household officials, and exercising control over the local population through lord-tenant relationships with the vassals, while also having responsibility for governing certain parts of the kingdom and their inhabitants.<sup>[14]</sup> The magnates were able to secure their own private hundreds, exercise the right of return of writs, and independently execute what the king's writs ordered on behalf of the royal officials. Such a state of affairs, in which the king and the magnates shared the rule over the kingdom's inhabitants, can be referred to as the 'magnates' conglomeratic governance'. At the start of their reform movement reformer magnates formed a unity by binding themselves through common oath. The magnates' conglomeratic governance' could have several variations, depending on the degree of cohesion of the magnates as a kingdom

[7] Asaji, Keizo, *The Angevin Empire and the Community of the Realm in England*, Osaka, 2010 (in English, *Angevin Empire* hereafter), Part 1; Asaji, Keizo, *The Community of the Realm and the Baronial Reform Movement, 1258-1267*, Kyoto, 2003, Part 2. (*Reform Movement* hereafter, in Japanese)

[8] Jobson, *First English Revolution*, pp.22-27; Ambler, *Song of Simon*, pp.172-3, 198; Kido, *Magna Carta*, p.116.

[9] Asaji, *Angevin Empire*, ch.3; Asaji, K., 'The Baronial revolt and the Community of the Realm, 1258-1265', *Journal of Legal History*, vol.56, 2007, pp.1-39. (in Japanese)

[10] The Papal letter was publicized in England on 12 June.

It was confirmed by the successor Urban IV in February 1262. Powicke, *13th Century*, pp.167-8; Kido, *Magna Carta*, pp.135, 137.

[11] Powicke, *King Henry*, pp.422-5.

[12] Powicke, *13th Century*, pp.170-1.

[13] Jobson, *First English Revolution*, pp.54-56; Kido, *Magna Carta*, p.134.

[14] Clanchy, M., 'Did Henry III have a policy?', *History*, 53, 1968; Do., 'The Franchise of the Return of Writs', *Transactions of the Royal Historical Society*, 5th ser., vol.7, 1967.

governing power. In the case of the government of the Provisions of Oxford, the reformer magnates who constituted the king's council were united by mutual oaths, which qualified the body as a core of the governing power of the kingdom.

Actually, Simon himself is said to have been reluctant to take an oath to the Provisions of Oxford.<sup>[15]</sup> He was familiar with the feudal situation of the kingdom of France, probably because he was aware of the weakness of the transversal solidarity of the magnates' community whose interests differed and who rivalled each other. Since there is little record of Simon's own administration of territory and subordinates as the earl of Leicester, it is not possible to judge whether he was competent to share in the governance of the kingdom. The earl of Gloucester was, however, and there is evidence of this.<sup>[16]</sup> In 1258 both of the earls were sworn in.

The Provisions of Oxford had not abolished the ruling authority of the king; the constitutional system of the Provisions of Oxford was not revolutionary in that sense. It was merely a change in the system from one in which the king alone exercised the right to rule the kingdom to one in which the wishes of the king's tenants-in-chief were incorporated into the royal decision-making. Since those magnates, keeping the rights of return of writs and private hundreds, had been governing certain parts and inhabitants of the kingdom by means of their own household officials and feudal tenants, they had grounds for demanding to be included in the king's council that formulated the governing policy for the whole kingdom. Henry adhered to this governmental system in order to obtain the magnates' support for the Sicilian Crusade, as was also stipulated in a statement within patent rolls and the Provisions of Oxford. For this reason, it was beneficial for the king to have them take part in the governance of the kingdom.<sup>[17]</sup>

County sheriffs were effectively the only local officials through which the king could govern the royal estates and inhabitants of each county. The sheriff of each county would mobilize influential local subordinates who felt affiliation to the king to conduct orders delivered from the centre to the county, and to collect money from the people for the king. There were various degrees of subordination to the sheriff and compliance with his orders by local leaders, such as gentry, who had no feudal relationships with the king; this varied from county to county, so it was by no means uniform. For the gentry the resolution of local power disputes was important, and they used the king's power as a third-party authority through the sheriffs, as well as judges of the occasional general eyre courts, to settle disputes and to ensure the outcomes. Since each local society had its own power structure and regional interests, each community could have its own 'local will', which might differ from the policy of the central government, and also from the intentions of the feudal magnates of the land. Thus, 'local will or intentions' could exist within each community.<sup>[18]</sup>

After Henry's regaining of ruling power in 1261, the reformer magnates' lost power to make initiatives within the government. The regulation stipulated within the Provisions of Oxford for the reformation of the realm to appoint or dismiss sheriffs was thus ignored, and so the king directly dismissed sheriffs without the advice of the Council.<sup>[19]</sup> However, in the spring of 1263, in the Welsh frontier, an armed clash occurred between the Marcher barons and the Welsh forces, and related conflicts arose in England as well in connection with this disturbance. Henry could not quell the conflicts on his own, but Simon, who was called from France, was able to resolve the conflicts by winning over the young Marcher barons. On July 16th of the same year, a peace agreement was reached between Henry and Simon. The king hence accepted the governmental system of the

[15] Maddicott, *Simon de Montfort*, p.16; Nangis, 'Vie de St. Louis', *Chronicon Guillaume de Nangis, Recueil des Historiens des Gaules*, 20, pp.414, 557.

[16] Altschule, M., *A Baronial Family in Medieval England: The Clares 1217-1314*, Baltimore, 1965, pp.110-121; Asaji, *Reform Movement*, ch.7, 'The jurors of Armingford Hundred and the earl of Gloucester's leet jurisdiction'.

[17] Ch. 11 of the Provisions of Oxford, *DBM*, pp.104-5.

[18] Asaji, *Angevin Empire*, chs. 7, 8, 9, 10; Asaji, *Reform Movement*, ch.5.

[19] *Foedera*, Record Comm. Ed. 1816, p.406; Treharne, R.F., *The Baronial Plan of Reform*, 2nd ed., 1971, Manchester, p.460; Jobson, *The First English*, p.66; *Calendar of Patent Rolls, (CPR hereafter)1258-66*, pp.163-4; Powicke, *13th Century*, p.164-5.

Provisions of Oxford established by the magnates in 1258, and handed over some of the king's castles to Simon and others; Henry also announced that he would not employ aliens in governing the kingdom.<sup>[20]</sup> The agreement also mentioned the establishment of a government-reform committee, through which both the king and the reforming magnates were to make necessary amendments to revive the Provisions of Oxford that Henry so far had rejected.<sup>[21]</sup> It seemed that the 'magnates' conglomeratic governance' had been revived, but the conflicts could not be settled without discussions on how to amend and reform the articles of the Provisions of Oxford. Therefore, in order to achieve peace between the two factions, Simon requested arbitration from King Louis IX of France, and each side documented its requirements and sent them to the French king.<sup>[22]</sup>

In January 1264, Louis declared a verdict in Amiens, France. Repudiating the Provisions of Oxford altogether and all systems that it had established, he decided that Henry should be allowed to regain all of the powers he had held before 1258. An amnesty was only given to the reformer magnates and barons. The 'magnates' conglomeratic governance' was therefore not revived, and the results of their reform movement were totally rejected.<sup>[23]</sup> Henry, given Louis's confirmation of the restoration of his royal power, began to use force to subdue the forces of Simon and his supporters between January and March. Feudal hosts were summoned to Oxford by the king, and on April 4th there was a battle in Northampton, where Simon's army stood.<sup>[24]</sup> Simon's army was defeated and many of the reformer barons were captured by the royal troops. After that, there was another military clash in Rochester, where Henry's army overwhelmed Simon's army. Simon himself did not take part in the battle of Northampton as he was based in London. Therefore, Henry's army marched along the coast of Kent and Sussex, bypassing London, to secure ties with the queen and the royalists on the continent. On 12th and 13th May, bishops functioned as emissaries of the Montfortians and negotiated with Henry to revise the Provisions of Oxford, but Henry and his brother Richard opposed the re-establishment of the Provisions. A peace was therefore not reached.<sup>[25]</sup> As a result of the difficulty of resolving the matter through negotiations, a battle took place at Lewes in Sussex on 14th May, where Simon's army won a big victory. The king, the prince, and the king's brother were captured, and Simon concluded a peace agreement, called 'Mise of Lewes', with the royalists. He also initiated negotiations between the two factions for the revision of the Provisions of Oxford, which would continue until a final agreement was reached. It was decided that a parliament would be summoned in order to determine what the governmental system would be; and also that Prince Edward would be held hostage to guarantee this truce and peace.<sup>[26]</sup>

The so-called Simon's parliament was thus summoned in June 1264. The summoner was the king, not Simon. Henry had taken refuge in a priory after the battle on the battlefield of Lewes, and in the negotiations that night agreed to be accompanied by Simon everywhere, so that from then Henry moved with Simon from the parliament of 1265 to the battle of Evesham, where Simon was killed. The summons to parliament for two knights from each county on June 4th was also issued in the name of Henry. The text for the 'Mise of Lewes' through which knights were summoned to the parliament no longer exists. Several researchers have attempted to reconstruct its content, which we will examine below.

## 2. MISE OF LEWES

In 1933 Noël Denholm-Young explained the course of events in which 'Mise of Lewes' progressed

[20] *CPR, 1258-66*, pp.268-70.

[21] *DBM*, pp.40-42; Jobson, *First English Revolution*, pp.66-68; Kido, *Magna Carta*, p.142.

[22] *DBM*, pp.43-4, Docs. 37A, B, C, pp.252-279.

[23] *DBM*, doc.38, pp.280-89.

[24] *DBM*, p.47; Treharne, 'The Battle of Northampton', *Northamptonshire Past and Present*, ii, 1955, pp.13-30.

[25] Carpenter, David, *The Battles of Lewes and Evesham 1264/65*, Mercia Publications, Staffordshire, 1987,

pp.19-20; Gilson, J.P., 'An unpublished notice of the battle of Lewes', *English Historical Review*, (*EHR* hereafter), xi, 1896, pp.520-22; Maddicott, 'The Mise of Lewes, 1264', *EHR*, xcvi, 1983, pp.588-603.

[26] *DBM*, pp.47-8.

as follows.<sup>[27]</sup> The original document of the Mise itself has not survived, but in Rishanger's chronicle and the Patent Rolls it is recorded that the agreement was reached.<sup>[28]</sup> On 26th May, a royal letter was issued to King Louis IX of France, expressing the hope that some Frenchmen would be chosen to act as arbitrators for the revision of the Provisions of Oxford.<sup>[29]</sup> The letter said, 'We will hold a parliament in Whitsuntide in London.' The following is the summary of Denholm-Young's account of the formation and expiry date of '*Forma Regiminis* (Form of Governance)', the provisional constitution decided on as a royal ordinance at the June parliament, and 'Peace of Canterbury', which was its revised edition agreed on in the August meeting. 'Mise of Lewes' was concluded on the evening of 14th May, and remained valid until the 'Peace of Canterbury' was concluded around 15th August. In the meantime, the 'Form of Governance' was established at the parliament in June, but it remained in a provisional state. Since the French king had not responded to the request for arbitration, the 'Form of Governance', with additional articles, was accepted as the 'Peace of Canterbury' before 15th August. Further amendments were expected to be made in autumn in negotiations with the French arbitrators and the Papal Legate, but these were conducted with no success. Denholm-Young therefore assumed that Simon's party intended to make *Forma Regiminis* official at the parliament in January 1265.

This theory was criticized by John R. Maddicott. He argues that Denholm-Young's theory fails to take into account that Simon intended to revive the Provisions of Oxford in the 'Mise of Lewes'. And for Simon the revival of the Provisions was so important an issue that he was even willing to pay compensation to the king to have it reinstated in the negotiations of 13th May.<sup>[30]</sup> However, Maddicott also noticed that the letter to Louis IX on 26th May requesting arbitration did not mention the Provisions of Oxford.<sup>[31]</sup> He insists that as the acceptance of arbitration from Louis did not arrive in the end Simon had no choice but to confirm parliamentary affirmation to establish the royal ordinance, '*Forma Regiminis*' at the June parliament, which was more enforceable on the king than the 'Mise of Lewes'.<sup>[32]</sup> Maddicott considers the summoning of the knights to the parliament in June 1264 and January 1265 a measure by Simon to achieve his private interests, while at the same time targeting the public goal of reviving the Provisions of Oxford, with its provisions for the investigation of local grievances, to address the dissatisfactions of knights.<sup>[33]</sup>

David Carpenter supports Maddicott's theory that at the time of 'Mise of Lewes', Simon was concentrating on reviving and revising the Provisions of Oxford.<sup>[34]</sup> Maddicott asserted that Simon adhered to the belief that the 'Form of Governance' embodied all principles of the Provisions of Oxford and that he imposed it on Henry in the June parliament. However, Carpenter had a reservation about this. This is related to the fact that the August 'Peace of Canterbury' is not simply a revised version of the Provisions of Oxford, but that it declares that the 'Form of Governance' is to be maintained not only during Henry's lifetime but also in Edward's reign. In other words, Carpenter considers how Simon had, by August, abandoned his plan to maintain the Provisions of Oxford in favour of a formal governmental system, the 'Form of Governance'. He also questions Maddicott's interpretation of how knights were summoned as an attempt to increase his own support.<sup>[35]</sup> Comparing these three explanations, we can see that whereas Maddicott consistently considers Simon's policy as a revival and revision of the Provisions of Oxford, Denholm-Young and Carpenter see a change in policy around the June parliament with the revival of the Provisions disappearing in the second half of August.

[27] Denholm-Young Noël, 'Documents of Barons' Wars', *EHR*, xlviii, 1933, pp.55-75.

[28] *CPR, 1258-66*, pp.370-1, 347; also in *Rishanger, The Chronicle of William de Rishanger of the barons' war*, ed. J.O. Halliwell, Camden Society, 1840, p.37; *CPR, 1258-66*, p.318.

[29] *CR, 1261-64*, pp.385-6; *Wykes, Annales Monastici*, iv, p.152; *Flores Hist.*, Rolls Series, iii, pp.260-1; *De Antiquis Legibus Liber*, ed. Stapleton, T., Camden, 1846, p.63.

[30] Maddicott, 'Mise of Lewes', pp.590-3; *Rishanger*, p.30.

[31] Maddicott, 'Mise of Lewes', p.596.

[32] Maddicott, 'Mise of Lewes', pp.600-1.

[33] Maddicott, 'Mise of Lewes', p.602.

[34] Carpenter, 'Simon de Montfort and the Mise of Lewes', *Bulletin of the Institute of Historical Research*, 58, 1985, pp.1-11, This article is also in his *The Reign of Henry III*, Hambleton edition, 1996, pp.281-292.

[35] Carpenter, 'Mise of Lewes', pp.282-3.

Let us then trace the transition from the governmental system of the Provisions of Oxford to that of the new governmental system of the 'Form of Governance' of June 1264 chronologically. Louis' verdict at Amiens in January rejected a governmental system based on the Provisions of Oxford, but at that time there was no new governmental system with which Simon could replace that of the Provisions of Oxford. After defeating the royal army in the battle of Lewes in May, in negotiations on the battlefield, the peace treaty, 'Mise of Lewes', was drawn up with a provision that the king would accept the revival and revision of the Provisions of Oxford. This could be done because the earl of Gloucester, who had been one of the leading reformer magnates of 1258, was also there on the spot.<sup>[36]</sup> After that, the letter of 26th May requesting Louis to send French arbitrators did not refer to the Provisions, so that by this time Simon may have been aware that Louis would not accept the governmental system based on the Provisions which had been rejected at Amiens. Therefore, in the royal ordinance, the 'Form of Governance', created in the parliament in June, a new governmental system was provisionally decreed and promulgated with the condition that the new system would be valid until the 'Mise of Lewes' could be put in place. However, in August, the Papal Legate announced a threat of excommunication of Simon and the Montfortians. Thus, when the legate rejected the revival of the Provisions in the negotiations in September, Simon would have decided that the possibility of restoring the Provisions had disappeared, such that he summoned the next parliament in December to confirm the new governmental system decided on in June.

In the process of this policy change, there was no motivation to seek the support of the knights. Carpenter considers that it was more important for Simon to get the king to recognise the new governmental system.<sup>[37]</sup> In sum, determining the difference between the system based on the Provisions of Oxford and the new system based on the 'Form of Governance' is a key issue in the analysis of Simon's parliaments of 1264 and 1265.

### 3. THE 'FORM OF GOVERNANCE'

In January 1264 at Amiens, Louis IX completely rejected the governmental system based on the Provisions of Oxford, and at this point the 'magnates' conglomeratic governance' system was terminated. Henry then had a basis for the policy of his regaining all sovereignty over the kingdom and eliminating by force any attempt to subvert the regime as an enemy of the king. On the other hand, Simon as a tenant-in-chief of the king was prepared to be his subject, but intended to revive the governmental system based on the Provisions of Oxford in accordance with the agreement made in July of the previous year. He made his intention clear in the negotiations with the king through the bishops on May 12th and 13th before the battle of Lewes. It is believed that on 14th May, after renouncing his oath of loyalty to the king and winning the battle of Lewes, he also stated his intention to amend and restore the Provisions of Oxford during negotiations with the King after the battle. However, the letter to Louis IX issued on 26th May did not mention the revival of the Provisions, and since Louis had already dismissed the articles in January, their revival could not be expected. In fact, the reply from Louis did not arrive even in July. Therefore, Simon's options were narrowed, and it was necessary to establish and enforce a temporary governmental system by early June, until the new system based on the Provisions of Oxford could be restored. It is stated in the 'Form of Governance' that this was a provisional governmental system. Moreover, this was different from the 'magnates' conglomeratic governance' established by the Provisions of Oxford. The 'Mise of Lewes' had mentioned that a temporary system should be enacted in parliament.

The governmental system of the 'Form of Governance' consisted of some of the principles of

[36] The earl of Gloucester, when he deserted Simon the following year, complained that the Provisions of Oxford was not observed. *De Ant. Leg. liber*, ed. Stapleton, T.,

Camden, 1846, p.73.

[37] Carpenter, D. 'Mise of Lewes', in *The Reign of Henry III*, pp.283-4.

the Provisions of Oxford and some innovations.<sup>[38]</sup> The new system and the former one shared the idea that the king would cooperate with the magnates to exercise the right of sovereignty over the kingdom and that the magnates would participate in the king's Council. The major change was in the position of the Council. In the Provisions of Oxford, the method of selecting the members of the Council, or the Committee of Fifteen, was as follows: Twelve members from the royal side nominated two of the twelve members from the reformer magnates' side, and the twelve members from the magnates' side also nominated two from the twelve members of the royal side.<sup>[39]</sup> In total therefore these four members elected fifteen members from twenty-four of both sides to form the executive Committee of Fifteen. Therefore, the Committee of Fifteen consisted of not only reformer magnates but also king's favourites of the royal court. The Council's authority to advise the king on important governance issues of the kingdom was thus divided between the king and the reformer magnates and exercised on the basis of consensus. (This sharing of power is a factor that would cause division of the government.)

On the other hand, in the 'Form of Governance', it was not the king or Simon who was directly responsible for the governance of the kingdom, but a committee consisting of nine lay and religious magnates. The king had the right to appoint and dismiss the royal households and kingdom officials (i.e., Justiciar, Chancellor, Treasurer, Keepers of the Royal Castles, etc.), but in doing so was required to take advice from the Committee of Nine. This provision may have been made in response to Henry's complaints in 1261 that the Council had deprived the king of the right to appoint and dismiss king's officials. The power to appoint the Committee of Nine was vested in members of the Committee of Three: Simon de Montfort, earl of Leicester, Gilbert de Clare, earl of Gloucester, and the bishop of Chichester. (Lewes is in the bishopric of Chichester.) The king had authority over the appointment and dismissal of the nine members, but before making these decisions the advice of the Committee of Three was required. It was the King who appointed the three members of the committee, but when appointing and dismissing them, the king was obliged to take the advice of the prelates, magnates and barons. Actually, on June 23rd, during the parliament, the three members appointed to the Committee of Three by the king included Simon de Montfort, Gilbert de Clare and the bishop of Chichester. The nominees of the Committee of Nine are also specified in unprinted documents,<sup>[40]</sup> the committee being composed of lay and religious magnates. The resolutions from both committees were passed by a two-thirds majority.

The regulations stipulated that the king could not independently appoint or dismiss the Committee of Nine (the Council), which exercised the power of governance of the kingdom. In principle, the king could no longer nominate any member to the Council who represented the sole interests of the king. Even if there appeared to be a political division among the magnates making up the Committee of Nine, the Committee of Three did replace it, so the governmental system institutionalized in the 'Form of Governance' would not collapse immediately. Simon had learned from his experience hearing Henry complain about the rule of the reformers' council in 1261. This was a major difference between the governmental system of the Provisions of Oxford and the new governmental system based on the 'Form of Governance' and the 'Peace of Canterbury'. However, this new system also had a weakness. It could not operate normally in the event that there was a split in the Committee of Three. Initially there was no fear of this, as the bishop of Chichester was a supporter of Simon. However, when the earl of Gloucester deserted Simon's party in May of the following year, the weakness came to the fore.

There were other differences between the new governmental system and that of the Provisions of Oxford. Following the 'Form of Governance' of June, other regulations were added in August. One of the new regulations stipulated that council members, guardians of the royal castle, and other royal officials must be natives of the Kingdom of England. Simon had been hostile to certain

[38] *DBM*, doc.40, pp.294-99.

[40] *DBM*, p.295, n.5; Oxford, Bodley MS, 91, ff.139v-140.

[39] *DBM*, doc.5, pp.104-5.

groups of aliens since 1258, including the Lusignan family and other Poitevins, but there were no regulations for excluding aliens in the Provisions of 1258.<sup>[41]</sup> Another difference is that provisions regarding reform of local governance are not found in the 'Form of Governance' as they are in the Provisions of Oxford.<sup>[42]</sup> This may be because issues for which a conclusion had not yet been reached could not be included. Furthermore, the 'Form of Governance' did not provide for the constituents of parliaments and their role in the governmental system. And while provisions for the observance of the Great Charter and the Charter of the Forest were included in both the Provisions of Oxford and the 'Form of Governance', the 'Form of Governance' additionally called for the observance of Provisions of Westminster promulgated by the king in the previous year. This shows the intention of the framers to conduct the ideas upon which the king and the reformer magnates had agreed.

The 'Form of Governance' required an oath from all officials, not only from the three and nine-member committees to comply with the provisions. (It was not a pledge of corporate unity, although it was obligatory for every official to pledge that they would be 'beneficial and sincere to the honour of God, the Church, His Majesty the King, and the Kingdom in performing one's duties'.<sup>[43]</sup>) In other words, this 'Form of Governance' did not stipulate that the reformer magnates should make pledges collectively. It simply ordered compliance with decisions based on the authority of the King in parliament. This was probably the result of a recognition of the divisions among the former reformers. Due to this new system of government, the role of sovereignty in the kingdom, so far entrusted to the king without any regulation, had changed. The right to appoint and dismiss all officials was vested in the king, but the king did not take charge of the governance himself, but left it to a committee composed of his vassals. Since it was stipulated that this governmental system would continue through the reigns of Henry and his son Edward, there was no attempt to change the position of the Angevins as a territory owner of the Kingdom of England from their status in the Provisions of Oxford of 1258. However, the centre of gravity of the sovereignty of the kingdom had shifted from the king to the Committee of Nine, but the three-member committee would sometimes intervene in the affairs of the king and the nine-member committee.

The Provisions of Oxford provided for a Committee of Twenty-four to improve the state of the Church (chapter 12), but there was no provision for clerics to participate in the council. (But in practice, it included the Archbishop of Canterbury as one of the king's side magnates.) The 'Form of Governance' stipulated that one of the Committee of Three should be a prelate when dealing with matters relating to the church.<sup>[44]</sup> Actually, one member of the three-member committee was the bishop of Chichester, and the Committee of Nine included the bishop of London. Knights of equivalent rank to the knights of the county who were summoned to the parliament were not included in the governing committee. Nor were these knights included on the witness list in the 'Form of Governance'.

#### 4. NEGOTIATIONS OVER AMENDMENT OF 'THE PROVISIONS OF OXFORD'

The 'Form of Governance' served as a provisional constitution prior to the final revision of the governmental system based on the Provisions of Oxford, as had been established in the 'Mise of Lewes'. Negotiations over the revision began in early July. There were now opportunities for the queen and royal favourites, who had fled to the continent, as well as the former reformers who

[41] *DBM*, doc.5, pp.102-3. The document stipulates that only natives may be elected to the Council. However, since Archbishop of Canterbury and Peter of Savoy were Savoyards, it is possible to imagine that the term 'foreigners' referred only to those aliens who did not belong to the kingdom of England, and not to visitors from foreign countries.

[42] Maddicott states that the Form of Governance was

intended by Simon to revive the Provisions of Oxford, which included a survey of local grievances, in order to gain the support of the knightly class, but there is no evidence of this in the document. Maddicott, *Simon*, pp.289, 291, 295.

[43] *DBM*, pp.296-7.

[44] *DBM*, pp.296-9.

had come to support the royal side, to lead their troops into England to rescue Henry and revive the former royal government. In response to those, Simon summoned feudal hosts on July 6th and 9th.<sup>[45]</sup> Louis IX did not respond to Simon's request for arbitration, considering Henry a de facto hostage. The Papal Legate tried to send Adam, a Franciscan, as a messenger to negotiate with Simon, and he landed in Dover, but was stopped there. Simon's eldest son Henry, the guardian of Dover Castle, refused to allow the legate to visit Britain as a special envoy from the Pope, at the command of his father.<sup>[46]</sup>

On 12th August Simon's representatives negotiated with the Papal Legate at Boulogne. By the end of July, Simon seemed to have submitted a proposal to the Papal Legate. This included church reforms and allowed foreigners to come to England, although they could not be employed as officials. This statement would be incorporated into the 'Form of Governance' and would therefore be in force until the end of Edward's reign. The legate did not immediately respond to this proposal.<sup>[47]</sup> Meanwhile, Simon made a new proposal to Louis on August 15th. The 'Peace of Canterbury' mentioned earlier was included as a part of it. On August 17th, the legate responded to Simon's representatives, bishops from England, rejecting Simon's proposal while threatening excommunication. On 15th September, Simon made a new proposal.<sup>[48]</sup> The regulation to refuse the appointment of foreigners to governmental offices would remain, but the number of French arbitrators could be enlarged from two to four.<sup>[49]</sup> On 24th September, Simon dispatched three bishops, Hugh Despenser, Peter de Montfort, and Richard Mepham to negotiate with the legate in Boulogne, hoping that the legate would intercede for Louis. Concessions were made except for the stipulation of refusing foreigners to the council.<sup>[50]</sup> Three of the six messengers on their way back to England were attacked in Boulogne and their documents were burned.<sup>[51]</sup> Negotiations broke, and the messengers returned to England on October 3rd. Bishops of Worcester and London proposed the release of Edward as a final compromise before leaving the negotiating table, but all of the terms were rejected. On 20th October, the legate published an excommunication letter against Simon and his supporters. Pope Urban IV died on 2nd October, after which date the legate had lost the grounds for his authority. The Queen, intending to invade England, had been unable to dispatch her troops due to lack of funds.<sup>[52]</sup>

Looking at this negotiation process, we can see that Simon was trying to re-establish a governmental system based on the Provisions of Oxford.<sup>[53]</sup> However, his stressing of the regulation that foreigners should not be included in the council was based on the royal ordinances, the 'Form of Governance' of June and 'Peace of Canterbury' of August, rather than on the governmental system of the Provisions of Oxford. Asking Louis to arbitrate between the king and himself concerning the governmental system and asking the bishops to function as negotiators were quite different from the case of 1258. Negotiations ceased after 20th October, when the excommunication letter was published, at which point Simon was forced to give up on amending the governmental system based on the Provisions of Oxford that had been promised in the 'Mise of Lewes'. As a procedure for selecting England's regime, approval by the neighbouring king or the Pope was no longer an option. Instead of relying on external approval and authority from the sacred world, the necessary issue became how to obtain the consent of the governed within the kingdom of England, with the 'Form of Governance' and the 'Peace of Canterbury' defining the official governmental system.

[45] *Foedera*, 1816, Rec. Com., I, i, p.444; *CPR, 1258-66*, pp.360-2, 291.

[46] Maddicott, *Simon*, pp.290-93.

[47] Maddicott, *Simon*, pp.293, 303; Heidemann, J., *Papst Clemens IV*, Münster, 1896, No.20; *Foedera*, I, i, p.447.

[48] Maddicott, *Simon*, pp.293-7.

[49] *Diplomatic Documents*, i, 1964, p.393; *CPR, 1258-66*, pp.370-1.

[50] Heidemann, J., *Papst Clemens IV*, Münster, 1903, Nos. 41, 42; Carpenter, 'King Henry III's Statute against Aliens',

*EHR*, cvii, 1992, p.941; *DBM*, pp.262-3.

[51] Maddicott, *Simon*, p.300.

[52] Bémont, Ch., *Simon de Montfort*, Paris, 1884, p.378.

[53] The reform of the Church was, according to Maddicott (*Simon*, p.304), a reaction to and a reformation of the Papacy's continuing policy of giving English clerical tax to foreigners. However, the agenda of which the Council of the English Church was discussing at the same time, was rather the liberties of the Church.

## 5. PARLIAMENT OF 1265

On the 14th of December 1264, royal letters of summons were issued in the name of King Henry to the prelates and secular earls and barons, for the parliament to be held in London on January 20th, 1265. Then, on the 24th of December, letters of summons were issued to sheriffs of each county and to the borough authorities to dispatch two knights and two burgesses from each borough. On January 20th, 1265, four good men and barons of each of Cinque Ports were summoned to the same parliament.<sup>[54]</sup> The summoning letter described the agenda of the parliament as follows: 'to provide happily for his (Edward's) deliverance and to confirm and finally complete the full security of tranquillity and peace, to the honour of God and the advantages of the whole realm, and also for certain other matters concerning our realm, which we do not wish to settle without your counsel and that of our other prelates and magnates.'

The first issue on the agenda, that of Edward's release, had been a matter of concern since the 'Mise of Lewes', and was also taken up in the negotiations with the legate in September and October, 1264. As for 'other matters', the King's statement of March 14th, issued at the end of this parliament, noted that 'we will observe in good faith that royal ordinance and peace resolution, and will maintain the tranquillity of the realm, and will no way work against them'. 'The royal ordinance and peace resolution' means the royal ordinance agreed on in the parliament in June of the previous year, i.e., the 'Form of Governance' and the 'Peace of Canterbury' in August. The king promised to comply with these, as published at the end of the parliament as a statement from the King. With this statement, the 'Form of Governance' was made official as Simon had intended. (Hereinafter in this article, the 'Form of Governance' and the 'Peace of Canterbury' are collectively referred to as the 'Form of Governance'.) The king had approved the transfer of sovereignty or governing power to the Committee of Nine, and the approval was witnessed by the lay earls and barons and the prelates as well as by the knights of counties and burgesses of boroughs summoned to the parliament.<sup>[55]</sup> The parliament was used, or rather exploited, as a place for participants to approve the institutionalization of the parliament for those in power to govern the realm. The king's statement was then sent to each county and ordered to be read aloud at county court meetings.

We may then ask, did the knights of the county and the burgesses who had been summoned to the parliament participate in the decision regarding the 'Form of Governance' in June of the previous year, and in the recognition or ratification of the governmental system in the parliament of January 1265?<sup>[56]</sup> The conventional textbooks note that, as members of the parliament, the knights and burgesses participated in the decision regarding recognition of the system, with the recognition that knights and burgesses participated in the decision as members of the parliament. However, it is necessary to ascertain whether or not this is true. In the 1265 parliament, no new governmental system was launched; the parliament simply approved the royal ordinance of June of the previous year that designated a formal constitution. So it is necessary to consider the role of the knights in the 1264 parliament that had decided on the royal ordinance.

On 4th June, 1264, a writ of summons was issued in the name of King Henry III. According to the writ, a new *custos pacis*, keeper of the peace, would be appointed in each county. Each of the keepers were ordered to select four more law-worthy and prudent knights from the county, assented to by the county, to treat with the king in the business of the king and kingdom; these knights would be sent to London on 22nd June.<sup>[57]</sup> There is no historical record showing how many knights actually participated, however. At the parliament held on 22nd June, the royal ordinance called the 'Form of Governance' was decreed. The contents of this have already been examined in this

[54] DBM, docs.41A, B.

[55] DBM, doc.42, pp.308-15.

[56] Maddicott affirms that theory. *Parliaments*, pp.259-60.

[57] DBM, pp. 292-3.

paper. Did the knights actually participate in this decision? The preamble to the document reads as follows: 'This is the form of peace agreed upon and approved by the lord King and the Lord Edward his son, and all the great men, and the community of the whole realm of England.' The text further states, 'This ordinance was made at London with the consent, will, and precept of the lord King, and of the prelates, barons and also the community at that time present'.<sup>[58]</sup> R.F. Treharne admits that the word knight was not used here, but says that it is clear that knights had been summoned, as described above, and that the 'community of the whole realm of England' could be considered as a group of knights representing each county.<sup>[59]</sup> But can this assumption be substantiated?

As mentioned above, the royal ordinance of June was approved by those summoned to the parliament of January 1265. The king's statement published in March stated: 'By the unanimous agreement of ourselves, and of Edward our firstborn son, and also of the prelates, earls, barons, and of the community of our realm, it is by agreement provided for the peace of the realm, for the security of which Edward and our nephew Henry, the son of the king of Germany, had been given as hostages that a certain ordinance made at London in June in the 48th year of our reign with the unanimous assent of ourselves, the prelates, earls, and barons concerning our state and that of our realm should be observed inviolably.'<sup>[60]</sup> In the first sentence, 'the community of the realm' is presented as if it is separate from barons. At the time when Edward was taken hostage, shortly after the battle of Lewes, there must have been knights remaining on the battlefield, such that this community can be thought of as referring to the knights who were there. The statement later suggests that the royal ordinance from the June parliament was made by the king together with the prelates, earls and barons. In other words, neither the word 'community', nor knight was mentioned as a parliament member concerned with the decision regarding the contents of the ordinance. The statement of March 1265 about the decision at the June parliament did not use the word 'knight', nor the expression 'community of the whole realm'. Treharne regarded the 'community' as a group of knights, but no proof of this is found in the document. The king's statement in March 1265 reads that the prelates, earls, and barons had participated in the decision in the June parliament of the previous year, but the participation of the knights in the ordinance cannot be proved. When the 'Form of Governance' was decided in June 1264, Simon and his supporters did not see the knights as having the power or the right to influence the content of the royal ordinance.

It would seem to have been Simon de Montfort and his supporters who produced the text of the king's statement of March 14th. This can be assumed from the following segment of text: 'We will not proceed against or seek to blame, by reason of the war, any of those whom we denounce as enemies, or any of their supporters, that is to say, the earls of Leicester and of Gloucester and others supporting them and our barons and citizens of London and of Cinque Ports, nor to any of them will we do harm or order harm to be done.'<sup>[61]</sup> The King himself could not have written this sentence, but it does reflect the strong will of the earl of Leicester and his supporters. From the standpoint of the earl of Leicester, it can be seen that it was the prelates, earls, and barons, but not knights, who decided the 'Form of Governance' at the parliament in June of the previous year. It can be said that Simon, recognizing that only the king and his tenants-in-chief were entitled to determine the governmental system of the kingdom, first sought their approval of the 'Form of Governance' at the June parliament in 1264, then the unanimous approval of all the participants in the January-March 1265 parliament. Neither the words of knights nor burgesses appeared as parliament members in the King's statement of March 14th. Treharne's interpretation, described above, that the 'community' in the 'Form of Governance' refers to a group of knights, and that they participated in the decision-making in the parliament is rejected by the king's statement of March.

[58] DBM, pp.294-9.

[60] DBM, pp.308-9.

[59] Treharne, R.F., *Simon de Montfort and the Baronial Reform*, Hambledon, 1986, pp.269-80.

[61] DBM, pp.310-11.

The knights were summoned to the parliament but did not participate in the decision-making there.<sup>[62]</sup>

So what is meant by the phrase 'community of the entire Kingdom of England' in the June 1264 ordinance? This part of the ordinance should be read carefully. The preamble states that 'by the unanimous agreement of ourselves, and of Edward our firstborn son, and also of the prelates, earls, barons, and of the community of our realm, it is by agreement provided that a certain ordinance was made at London.' So, the community had commonly agreed on it, but knights were not mentioned in this part of the ordinance. And the passage, '*Hec autem ordinatio facta fuit Londoniis de consensu, voluntate et precepto domini regis, necnon prelatorum, baronum ac etiam communitatis tunc ibidem presentis*',<sup>[63]</sup> in the main part of the text, suggests that the ordinance was made with the consent, will, and order of the community which was present at that time. This sentence could also be interpreted to mean that the community was present at the time of the decision in the parliament and agreed with the decision of the king and the magnates.

Since it is certain that the knights were present, it may be possible to interpret the community here as including the knights. Maddicott believes that the knights also participated in the debate in the parliament, although there is no conclusive evidence about whether the community included knights or not.<sup>[64]</sup> He believes that the knights, on behalf of a county community, would have brought the demands of the local community to parliament. It could be argued, however, that it is difficult to see the 'community' as referring to a group of knights with unified ideas of all the counties at all. Because each county community had its own demands, the varied local petitions, when brought from each county to the centre, could not always be easily consolidated to represent a common intention. From the point of view of the summoner who wanted to pass this royal ordinance, it made sense to leave aside the demands of county communities with differing interests and think of the summoned as a 'community of the whole kingdom', recording that the resolution was agreed on by all attendees within the community of the kingdom of England, including county knights. This would ensure that, in the event that the approval of the neighbouring king or the pope is not obtained, it could be claimed that the royal ordinance had unified support within the kingdom. In that sense, the phrase 'present there at that time' can be read as referring to the value of the county knights as witnesses or bystanders rather than decision-makers.

Burgesses of each borough were also summoned to the parliament in January, but in the king's March statement there was no mention of burgesses being present at the time of the resolution. Since the interests of the borough communities varied and even conflicted with each other, there would have been nothing that could be called a unified community of all boroughs.

The content of the king's statement in March seems to have already been decided by mid-February.<sup>[65]</sup> On 15th February, the king issued a writ to the sheriff of Yorkshire ordering that the travelling expenses of the knights attending the parliament should be borne by 'the community of the county'.<sup>[66]</sup> The knights left London on that day and did not participate in subsequent discussions in parliament. On 23rd February, the king ordered the sheriff of Shropshire and Staffordshire to send two knights to the parliament by the 14th of March, because none of the knights previously summoned had come from those counties.<sup>[67]</sup> In other words, the parliament continued until the statement was announced on the 14th of March, but the knights did not take part in it.

The knights were summoned and were present at the parliament, but there is no evidence of their participation in discussions or voting. It is recorded that they agreed with the decision, but

[62] Maddicott explains as follows: 'the knights appeared in parliament both as defenders of the local interests... and as petitioners. ... Did they also contribute to debate? It is fairly clear that they did.' But he does not refer to the wording of Simon de Montfort in the statement of Henry III of the 14th of March, 1265. Maddicott, *Parliament*,

p.259.

[63] *DBM*, p.298.

[64] Maddicott, *Parliament*, pp.256, 259.

[65] *DBM*, p.53.

[66] *DBM*, doc.41C.

[67] *DBM*, doc.41D.

considering the differences in the interests of each county and borough, it would have been difficult for them to present a unified or unanimous view, so the statement would seem to refer only to the fact that they were present at the scene of decision made by the king and the magnates. According to today's parliamentary terms, attendees who do not take part in decisions are not members of the parliament. Therefore, the knights and burgesses summoned to Simon de Montfort's parliament in 1265 could not be considered to be members of the House of Commons of the Parliament by modern standards.

## 6. THE ROLE OF THE SUMMONED KNIGHTS

If it cannot be demonstrated that the summoned knights participated in discussions and decisions in the parliament, for what purpose were they summoned? In December 1264 at Worcester, each county was ordered to publicize at county meetings the Provisions of Westminster, with which the June parliament had required compliance.<sup>[68]</sup> In February, 1265, the king issued a writ of travel expenses of knights to the sheriff of Yorkshire, and the knights were sent home. Hence they were absent from the presentation of the king's statement in front of the magnates who remained in parliament in London until the 14th of March. The end of the royal statement (which was sent to 'Everyone in Yorkshire'<sup>[69]</sup>), reads, 'In testimony of which we send you the charters and ordinances, with these present letters patent, under our seal, to be kept safely, as a constant reminder of this, in our county court in the custody of trustworthy men elected for this purpose. ... we order these things to be read aloud in full county court at least twice every year'.<sup>[70]</sup>

The 'Form of Governance' decided on in the June parliament of the previous year had already been approved by the time the knights returned home on February 15th.<sup>[71]</sup> However, it could have been more convincing to the freeholders of each county if those knights had actually been at the January 1265 parliament; this would have allowed them, when the 'Form of Governance' was announced at the county court meeting, to tell the free people of the county that they had witnessed the approval process at the parliament. Not only were they witnesses of the proceedings of the parliament, but the knights (and perhaps the burgesses as well) could have been able to explain to the local populations at the time when decisions were publicized in each county (or borough) how the magnates approved of the new governmental systems in the parliament. If the statement issued in the name of the king were read aloud at the court meetings of each county, the king's commitment to the policy to maintain the new governmental system would signify a promise of the king to all the freeholders as well as to the king's tenants-in-chief. This method of promulgation was also employed at the time of the Great Charter, so this would not have been the first time.<sup>[72]</sup>

This time, however, the method had a different meaning. The statement read as follows: 'with respect to the said things, we, of our own free will, submit ourselves to their jurisdiction and coercion, entirely renouncing in these matters all our privileges obtained or to be obtained, granted or in future to be granted to us by the lord pope on his own initiative'.<sup>[73]</sup> This would be in a narrow sense a rejection of the Papal Legate's declaration of excommunication of Simon de Montfort and his adherents in the fall of 1264. But in its wider context, the pope's denial of the Provisions of Oxford in 1261 was in the drafter's mind. Therefore, it might have been Simon's decision at this point not to give the pope the authority to judge the governmental system of the kingdom of England. In the absence of approval by foreign powers and authorities, the kingdom would have to rely on the approval of its inhabitants, which would be the price of the ruler's promise to the ruled.<sup>[74]</sup> This contrasts with the image of the kingship of Henry III, who tried to authorize the sovereignty of the

[68] DBM, pp. 304-7; Maddicott, *Parliament*, p.258.

[69] DBM, pp. 308-9.

[70] DBM, pp.312-15.

[71] *De Ant.Leg.Lib*, ed. Stapleton, Camden, 1846, p.71.

[72] Carpenter, *Magna Carta*, Penguin, 2015, p.374.

[73] DBM, pp.314-5.

[74] DBM, pp.314-5. *The Song of Lewes*, Kingsford, C.L., Oxford, 1964, *English Historical Documents*, iii, pp.901-11.

kingdom of England through the authority of the king of France and the pope.

It is unclear to what extent the summoned knights and burgesses actually lived up to Simon's expectations, but he had no other secular means to which he could turn. The king's statement of the 14th of March, 1265, also notes: 'so that each and every one of the above enactments shall remain firm and unshaken, the reverend fathers, the bishops appointed to this realm, at our instance, have launched a sentence of excommunication against all who shall knowingly oppose or in effect attempt to oppose the orders or any of them.' It is not the first time that this was done, but Simon sought the support of bishops and positioned his new governmental system within the English theologians' worldview of the time.<sup>[75]</sup>

## CONCLUSION

As characteristics of a parliament one would expect knights to speak out on behalf of their counties, expressing the wishes of the inhabitants of the county, and that governmental decisions would be made through discussions based on these wishes. However, these characteristics are not evident at all in the parliaments of 1264 and 1265. The knights were only witnesses to the resolutions made by those in power, and the attendance of the burgesses of the boroughs is not confirmed at all except in the letters of summons. There is no evidence that Simon de Montfort, the de facto summoner, exercised a policy that took into account the interests of knights and burgesses. Nor is there evidence that the magnates granted voting rights to knights and burgesses. The knights were summoned because Simon de Montfort did not receive approval from either the French king or the Pope, and therefore turned to the inhabitants of the kingdom of England: the county knights and burgesses. The governmental system approved at the parliament of 1265 was new in that it formally shifted the delegation of the right to rule the kingdom from the Angevin family to the councils of the magnates of England. But the system collapsed a few months later with the death of Earl Simon of Leicester.

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[75] Hoskin, Philippa., *Robert Grosseteste and the 13th Century Diocese of Lincoln*, Brill, 2019, pp.198-211; *Letters of*

*Robert Grosseteste*, ed., Goering, J. and Mantello, F.A.C., Toronto, 2010, Letters 48 & 75.