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THE SECTION DE COMMUNE OF MOUREX, FRANCE

A “power to be heard, to defend what is precious to us”



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The *section de commune* of Mourex

A “power to be heard, to defend what is precious to us”

Following a recently proposed law by a group of French senators that will aim to dissolve all *sections de commune* in France, this report, based on a 2019 Masters dissertation, outlines the contemporary role of a *section de commune* located in the village of Mourex, France. Drawing on the notion of the commons and “dwelling”, this report demonstrates that the *section de commune* there is anything but a relic of the past; it provides important avenues for people to reconnect with their environment, symbolising the profound ways in which a community and their surrounding environment can be bound together in relations of mutual inter-dependence. In this regard, *sections de commune* represent important means through which to preserve France’s agricultural landscapes. The proposal of a law to dissolve France’s *sections de communes* is therefore a threat to these landscapes as well as a demonstrable example of “land-grabbing” on a massive scale by the French state – a process of large-scale acquisition of agricultural land without consulting the local population beforehand or obtaining its consent. By underlining the ongoing importance of the *section de commune* in Mourex, this report hopes to contribute towards a larger effort to prevent the French state from dismantling this ancient system of communal land rights, and an important part of France’s cultural heritage.

Key words: France, *section de commune*, commons, land-grabbing, dwelling

Introduction

A small group of French senators recently introduced a draft law aiming to dissolve all *sections de commune* in France (i.e. the smallest administrative entity or management structure, part of a larger municipal commune but that holds permanent and exclusive property or rights distinct from those of the commune). They argued that such sections were merely relics of the past. This report, based on a 2019 Masters dissertation that studied the contemporary role of one *section de commune*, the village of Mourex, in the North-East of the country demonstrates the opposite. Drawing on the concepts of “commons” and “dwelling”, it demonstrates that Mourex provides important avenues for people to reconnect with their environment, and is anything but a relic. Mourex’s *section* not only symbolises but embodies the profound ways in which a community and its surroundings are bound together in various relations of mutual inter-dependence. In this regard, *sections de commune* throughout the country are an important means through which to preserve France’s cultural heritage and agricultural landscapes. The recent draft law to dissolve them is, therefore, a threat as well as a demonstrable example of potential “land-grabbing” on a massive scale by the French state – through a process of large-scale acquisition of agricultural land without consulting the local population beforehand or obtaining its consent. By underlining the ongoing importance of the Mourex *section*, this report hopes to contribute towards a larger effort to understand and preserve these structures that have brought social cohesion to local populations, have permitted frugal management of resources and biodiversity and have enabled good governance of the local environment for centuries. To acknowledge the very much alive *section de commune* of Mourex is to help to prevent the French senate’s attempts to dismantle this ancient system of communal property rights.

Land-grabbing in France

In December 2019 a group of 27 French senators from the Republican Party proposed a law aiming to facilitate the dissolution of all *sections de commune* across France.

The proposed law contains three articles:

Article 1 provides that *sections de commune* may be dissolved uniquely by decision of the municipal council, and authorized on the basis of its own assessment that no persons concerned or interest exists on the part of the *section de commune*.

Article 2 provides municipal councils the option to introduce a municipal tax on *sections de commune* for the costs incurred by their imposed management; the purpose of this tax being to incite members of a section (alone liable to payment) to request its dissolution. The amount of the tax would be determined by the local municipal council, but limited to 200 Euros.

Article 3 proposes to review the criteria to create a union committee [*commission syndicale*], in terms of the number of voters required, and the amount of income generated by the assets of the *section*, which would be largely revised upwards. This would facilitate attributing to the municipal council the management of

sections' assets – to which they would accrue by default – rather than to a union committee.

A *section de commune*, according to France's General Code for Local Authorities (*Code général des collectivités territoriales*):

1. is a 'defined part of the municipal commune which possesses permanent and exclusive rights over the resources found in this part of the *commune*';
2. is a legal entity ('*personnalité juridique*') recognisable under public law; and
3. comprises the members who are those inhabitants with 'a fixed and real home within its territory'.¹

These rights and forms of common property have a long history, often having been lands bequeathed by lords to peasants, recognising the rights of peasants to the control of their lands. Later, these peasant lands were upheld by Napoleonic decree (Couturier 2000). As such, these communal lands today are part of France's cultural heritage. *Sections de commune* represent more than 300,000 hectares across France, and form part of what are called "Commons", worldwide. They include pastures, fisheries, forests, irrigation systems, water management, and other various resource rights. Property managed in common by groups of people occur throughout the world, as well as efforts to research and protect them, notably by Nobel-prize-winning economist Elinor Ostrom (e.g. Ostrom 1999, 2015). She debunked the pervasive metaphor of the 'tragedy of the commons'² by demonstrating how commons institutions, governed by local communities, can be extremely effective in managing and preserving shared resources. As an institution for managing a defined set of resources within a given territory, *sections de commune* can be understood as a commons institution (see, Vanuxem & Couturier, 2018).

The draft law currently proposed, intends to liquidate *sections de commune* throughout the country by 'providing a smooth dissolution mechanism' to all 'municipal councils regarding the transfer of property rights'.³ As stated in the explanatory statement accompanying the proposed law, the aim is to affect the transfer of resources from *sections de commune* to the municipal councils without consultation of the local people, effectively encouraging the disappearance of *sections de commune* across France. In this sense, the ultimate proposal of this law is the equivalent of "land grabbing", which is, according to the European Union, "a process of large-scale acquisition of agricultural land without consulting the local population beforehand or obtaining its consent".⁴

The proposal of this law raises a series of questions that this report will explore. What is the role of *sections de commune* in 21st century France? Are they, as this

1 <https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006070633>

2 Garret Hardin argued that rational individuals would inevitably over-exploit Common Property Resources in order to maximise their own profits while sharing out (thus minimising) the costs of doing so (1968).

3 <http://www.senat.fr/dossier-legislatif/ppl19-182.html>

4 <https://www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/land-grabbing-europefamily-farming>

draft law implies, a relic of history that simply no longer represent contemporary land uses? Or, conversely, do they still hold an important value for small communities that continue to have profound and lasting ties with their local environments? And finally, why should land grabbing by the French government be discouraged in light of the *sections de commune*?

As the environmental crisis unfolds, questions about how local communities interact with and govern their surrounding environments are of critical importance. Our current environmental predicament must be understood in terms of the 'cultural severance' happening between local communities and their environments (Rotherham 2013). In other words, as the ancient connections between communities and their environments are severed, along with their customary land-management practices, people are becoming increasingly alienated from the natural world, further increasing the likelihood of environmentally harmful land use practices and environmentally destructive infrastructure projects. Collective land management serves to protect, hence preserve common lands, which is why this system should be safeguarded, and common rights and properties be protected from all forms of land-grabbing.

This proposed law, despite its allusion to neutrality as a sensible reform for an 'obsolete system from another time', portrays a deeply charged political intention: that this type of land should be uniquely managed by the state. This entails a political assumption about how the environment should be managed and, ultimately, conceptualised. The questions and issues raised by the proposal of this law to dissolve *sections de commune* in France are therefore anything but inconsequential. As this report will argue, *sections de commune* are not relics of the past but symbolise important ways in which communities and their surrounding environments are mutually inter-dependent, and provide important avenues for people to reconnect to the environment, and allow them to continue to maintain their agricultural landscapes.

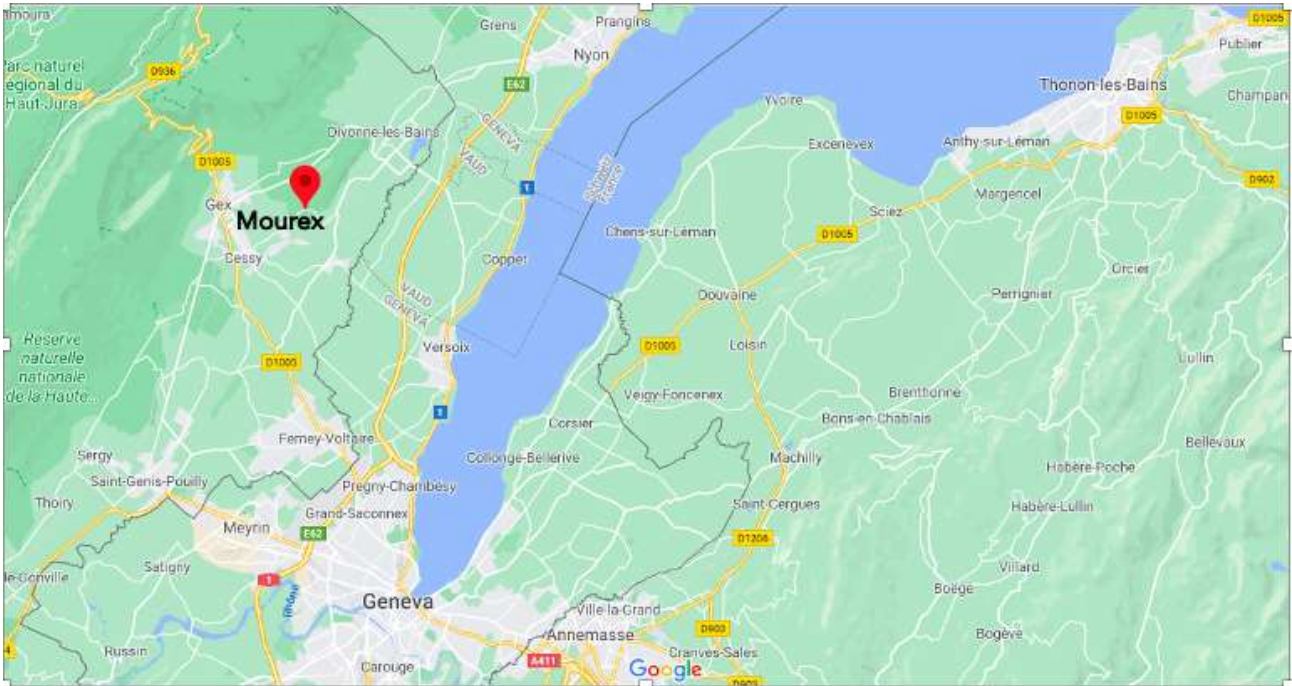
Field site and methods

Methods

Research on the *section de commune* of Mourex took place over a ten-week period in the summer of 2019. The primary means of data collection was via in-depth, semi-structured interviews (39 interviews) with those living in Mourex, but also with several others living in nearby villages. Data was also gathered through archival documents (letters, maps, cadastres, etc), participant observation, as well as via informal conversations with community members. All names of interviewees for quotes have been changed for confidentiality reasons. This work formed part of a Master's thesis at the University College London and a full account can be read in consulting the thesis itself (Smith 2019).

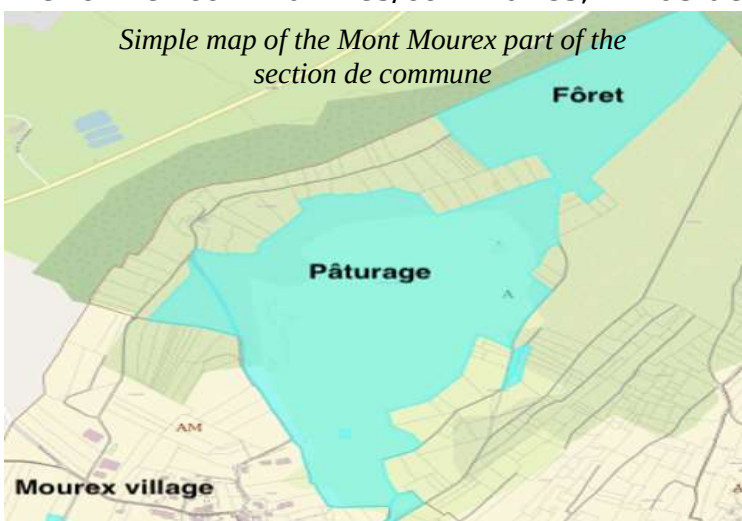
Mourex and the section de commune

The *section de commune* in the Mourex hamlet is a small settlement of some sixty-one households (approximately 260 members), 25 km north of Geneva, Switzerland in the Pays de Gex, France. Mourex is part of the wider commune of Grilly, a larger neighbouring village (about 384 households). The *section de commune* of Mourex is therefore a 'section' of the Commune of Grilly. No union committee (*commission syndicale*) has been able to be established in Mourex (which will be later explored), and so the Municipal Council of Grilly is the formal representative of the *section de commune*, managing it on behalf of the residents, as a form of trusteeship.



Mourex in the surrounding area

The Section of hamlet of Mourex has its origins in the old village of Mourex which survived until 1791. It was only in 1791 that the completion of the new administrative division based on the notion of parish would see the commune of Mourex "without a bell tower" be attached to that of Grilly. As the deputies of Constitution had not wished to call into question the real rights of ownership of the former communities/communes, it was decided that their former communal territory should be maintained and administratively constituted as a "section of the commune" within the new structure. The Section of Mourex was thus born. Wood for cutting was recognized by a surveyor in 1785 (see Appendix A). And later, the Mourex *section de commune* was formally



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recognized in 1860 - ownership of the land being reaffirmed by Napoleonic decree (see Appendix B).

Today, the *section de commune* of Mourex comprises 12 parcels of land, according to the French cadastral system, totalling 71.6 hectares (713,425 m²) across the Communes of Grilly, Sauverny and Cessy. This report focuses on the largest part of the *section* on Mont Mourex, comprising a 17-hectare forest and a 47-hectare pasture. Locally known as 'the Mont', it is 751 metres high and offers spectacular views over the Alps and Lake Geneva to the south and the Jura to the north. As a result of these beautiful views, along with its well-preserved natural spaces, the Mont has become a popular destination for nature lovers, mushroom collectors, walkers, joggers, mountain bikers and horse riders from all over the region, including nearby Switzerland.

Historically, the *section de commune* was invaluable for a small-scale agricultural community, relying on subsistence farming for its survival. It provided crucial access to the key resources found on the Mont:

- **Grass** for grazing livestock;
- **Water**, which ran from the harder rock of the Mont and pooled in springs at the bottom just above the village;
- **Wood** for fuel and construction;
- **Chestnut trees**, a staple source of food at the time;
- **Stone**, which was quarried extensively on the Mont until the 1950s, and was used as a key building material in the village and the wider region; and
- **Game and other non-timber forest products**, such as mushrooms, provided further nourishment to the villagers.

Today, the role of the *section de commune*, and its place within the community, have changed. As an institution for managing and preserving the community's access to key resources on the Mont, its significance has undoubtedly diminished. This is because the resources on the Mont, once essential for a subsistence agricultural economy, simply no longer play a pivotal role in contemporary village life for most inhabitants.



A view from the Mont looking towards the city lights of Geneva below

A minority of villagers continue to access the Mont for its natural resources – *affouagistes*, who harvest wood from the forest (whom we will discuss shortly), hunters, and farmers who access the Mont for grazing their cattle. However, today the Mont is less used for its physical resources and is more prized as a space for leisure activities owing to its beauty and tranquillity. As a result, one inhabitant of Mourex noted:

Today it's difficult to talk about the section de commune because, if you want, the resources that it provided us with since the beginning are no longer justified, we no longer need them (Alice, from an old village family).⁵

It is in this context that we might understand the motivation of French senators to propose a law that would facilitate the dissolution of *sections de commune* in France: they simply no longer speak to contemporary experiences of day-to-day life. However, to stop at this level of analysis of the *section de commune* in Mourex would ignore the role it plays within the profound connections that still exist between the community and their environment – namely, Mont Mourex.

When speaking with members of the community in Mourex about their *section de commune*, people certainly recognised how its role may have changed, but remained sure of its continued importance in their wider efforts to preserve the Mont, not merely as an objective environment, but as a space of collective meaning and a shared history. As Juliette recognised:

5 *C'est difficile de parler des ressources de la section de commune. C'est pour ça que c'est difficile de parler de la section de commune parce que, si tu veux, la ressource qui était là depuis le début n'est plus trop justifié maintenant.*

it's very "fusionnelle" ... the village and its Mont, the Mont and its village... (Juliette, 75, long-time resident).⁶

In other words, the role of the *section de commune* must be understood within this wider context of the community's intimate relationship with the Mont – an environment that shapes, and is shaped by, the community's ongoing relationship with it. Accordingly, it is in this context that we should understand the community's wider sentiments about the *section de commune* in Mourex: as a means to preserve what is important and special to them. As Marie aptly put it:

The section de commune is a means, it's a tool... it's a system that grants us power to be heard, to defend what is precious to us. Why would you give it up? (Marie, 44).

The *section de commune* in the context of the commons

Commons are more than institutions; they can also be understood as a process or an activity, even as a way of being in the world. In other words, being part of a commons is not only about managing and preserving shared resources, but also about *the process* of sharing those resources – the process of “joint action, of creating things together, of cooperating to meet shared goals” (Bollier & Helfrich 2015). What is shared in a commons are not just its resources, but “new forms of sociality, knowledge and cultural exchange” (Fournier 2013: 442).

In this sense, all commons are composed of three defining elements (De Angelis 2010):

1. All commons revolve around some kind of a shared resource
2. The commons necessitates a community that both benefits from and sustains those resources
3. The commons necessarily involves a process or an activity encompassing a certain set of relationships – based on the values of reciprocity, care, and respect etc. – between (and amongst) a community and its shared resource. This is called ‘commoning’.

It is within this context that we can best understand the nature of the commons in Mourex, and the role of the *section de commune* therein. Firstly, there is the ‘resource’ of the Mont itself, a space of beauty and tranquillity, as well as being the embodiment of the community's own heritage. Whilst there are various groups who still use the Mont for its physical resources – its forest and pastures – the majority of the community connects with this environment more as an immaterial or abstract resource (of leisure and identity). Secondly, there exists a community, not strictly defined by the contours of the *section de commune*, but defined by their shared enjoyment of and responsibility towards the preservation of the Mont. Finally, and most importantly, the commons in Mourex is continually produced and preserved through the ongoing

⁶ *C'est très fusionnel..., le village et son Mont, bien le Mont et son village. Non, c'est vrai, on est très lié.*

relationships of care and reciprocity that exist between the community and the Mont.

It is also from this conception of the commons in Mourex that we can best understand the contemporary role of the *section de commune*. Ultimately, the *section de commune* in Mourex is not *the* commons in Mourex but *part of* a wider commons that encompasses the community's intimate, ongoing relationship with their environment. That is not to relegate the importance of the *section de commune* as a legal entity, however. As I shall demonstrate in the following section, the *section de commune* plays a pivotal role in preserving and protecting the wider commons in Mourex. Returning to the sentiments of Marie, it is the *section de commune* that offers the community a voice, "a power to be heard" and a means to defend what is precious to them.

The commons and the *section de commune* in Mourex – Examples

In this section we will present two examples that illuminate the nature of the commons in Mourex – principally, the ways in which the community perceives and engages with their environment, and the kind of values that are generated within these ongoing relationships. From this point, we will then be able to demonstrate more precisely the role of the *section de commune* within this context.

Orilan

The first example illustrating the nature of the commons follows the story of Orilan – a village association set up to promote and preserve Mont Mourex along with all other natural and cultural heritage in the region.

Mourex has always been a site of contestation, and subject to attempts of land grabbing for centuries. First documented in 1792 (without author, 1792) over a land dispute between Divonne-les-Bains and Mourex, the community has struggled to preserve its access to key resources found on the Mont. In more recent years, threats of land grabbing have come in the form of destructive construction projects: an aerodrome, a go-karting race course, and a golf course have all been proposed for the Mont. Of all these modern development plans, however, the one that gained the most traction was a proposal in the late 1980s to build a 35-metre television antenna – which included a tarmac access road and an overhead power line – on top of the Mont, for French broadcaster 'TDF'.

Unsurprisingly, the village was appalled by the proposed project, and even more so when the Mayor of Grilly seemed favourable to the idea. The ensuing protests were fierce, and the community managed to prevent the project from proceeding. However, the most interesting aspect of this event was what the community did next. They saw the Mont being threatened not only by the proposed antenna project, but also by black thorn bushes, which were increasingly invading the Mont's pastures. Following this, Maurice, a prominent member of Orilan, recounted that the primary objective for the association was to prevent this gradual black thorn invasion:

In any case, [Orilan] was the continuation of this whole antenna story... We told ourselves, it's all very well fighting against an antenna, but the thorn bushes were a threat to the Mont as well, you see...It's not worth fighting against the antenna if we let the thorns invade anyway! (Maurice, 62, from an old village family).⁷

With this objective in mind, Orilan members started working together to cut back and burn the black thorns growing on the Mont. They started off as just a small group doing the job manually, then employed a specialised company thanks to the profits from the annual "Autumn Colours and Delights" festival. Finally, Orilan logically joined forces with the agricultural union, a tenant of Mont Mourex, to do the job more efficiently. What is perhaps most telling about this story is that the community also considered the invasion of thorn bushes on the Mont as a threat. In many ways this might seem somewhat peculiar: why prevent nature from taking its course and reclaiming the Mont? Why prevent this natural process of reforestation? I asked this question to Maurice, who replied:

Because otherwise it wouldn't be the Mont anymore... If we want to keep the Mont, preserve it, we have to maintain it. But it's not normal like that. The natural result is always forest. So, in a way, we are always working against nature.⁸

Maurice's response here reveals how the community perceives the Mont as more than just an objective environment, separate from them. In "working against nature", Orilan is preserving the Mont as both a natural *and* cultural environment – one that has been shaped over centuries of villagers grazing their livestock on it, and that now shapes the community that connects with it.

This way in which the community understands their environment, and their place within it, is called "dwelling" (Ingold 2000). To dwell is to recognise how humans and their environments are brought into being through their "ongoing togetherness" (Cloke and Jones 2001: 651). In other words, our very *being in the world* happens through a continual engagement with our physical surroundings. Nothing we think, do or construct (culturally or physically) can be separated from our physical environment simply because we live *in* the world. To dwell is therefore to live in a way that implicitly recognises the dialogic relationship between our environment and us – how we shape our environment and it shapes us.

Dwelling is a crucial aspect of the commons in Mourex. It speaks directly to the third aspect of the commons – the process of commoning – that we discussed in the previous section. Through a process of dwelling, the community sees its environment as something intimately bound up in its own existence – the material extension of the community itself. Subsequently, the community exhibits a great sense of responsibility to care for and preserve this

⁷ *En tout cas c'était la suite de cette histoire d'antenne... C'est bien pour interdire et lutter contre une antenne, mais les épines étaient une menace pour le Mont aussi tu vois. Eh bien, ce n'est pas le peine de lutter contre l'antenne si on laisse les épines l'envahir quand-même!*

⁸ *Parce que sinon il n'y aurait plus de Mont... Si on veut garder le Mont, le préserver, il faut le maintenir. Mais ce n'est pas normal comme ça – le résultat naturel c'est toujours la forêt. Donc, d'une certaine manière, on travaille toujours contre la nature.*

environment. It recognises how the health and destiny of the Mont is inexorably linked with its own flourishing and survival as a community.

We can see this aspect of the commons playing out in the various annual events that Orilan organises. For instance, in 2019, Orilan organised a play on the Mont, celebrating the long history of the peoples of this widely considered sacred site. The play was not only about the history of Mont Mourex, however. It also revealed how the Mont continued to play a role in bringing the community together over a space of shared meaning and significance in their daily lives.



Community gathering on the Mont for the play, 'Around the Menhir' (Autour du Menhir) Photo courtesy: Serge Blanc

Similarly, Orilan's annual *fête d'automne* also reveals this process of dwelling. As one villager pointed out:

The festival has a very strong function in bringing and keeping a community together – when people come here, they are kind of roped into the festival... The source of that festival is Orilan, which is primarily there to take care of the Mont, so it's really the Mont kind of inspiring the community around it." (Arthur, 44, resident).



Community gathering during the annual fête d'automne

Affouage

The second example in which the nature of the commons in Mourex is made visible is *affouage*, a French term that describes a type of community-based forest management in France. Coming from the Latin verb 'affocre', which translates into French as 'mettre au foyer' (to put in the hearth), *affouage* describes an activity permitting inhabitants of a *commune* access to preserve and manage a section of their local forest for their own domestic use.

Outwardly, *affouage* gives local community members access to wood for fuel and other purposes. But *affouage* also entails the management of local forests – planting saplings or clearing away undergrowth to give space for larger trees to mature, for example. In Mourex, it is the *affouagistes* who are in charge of the forest of the *section de commune*, managing it in conjunction with the council of Grilly and the National Forestry Office (*Office Nationale des Forêts ONF*). Since *affouage* is an entirely community-based form of forest management, and is therefore explicitly non-commercial, it relies heavily on maintaining the rights afforded to them by the *section de commune* (exclusive and permanent access to the *biens sectionaux* – resources of the section). In this sense, the *affouagistes* of Mourex could be considered unofficial representatives or spokespersons for the *section de commune*.



The affouagistes of Mourex manage and preserve the forests of the section de commune.

For the *affouagistes* in Mourex, their management of the forest is ongoing. To maintain the forest properly, the *affouagistes* must go there each week to undertake various tasks depending on the season. One retired *affouagiste* compared *affouage* to tending a “*champ de blé*” (field of wheat):

You always have to be looking after it, planting the saplings, creating the conditions for them to grow, then harvesting them when it is ready (Mathieu, 75, from an old village family, quote taken from field notes).⁹

This ongoing engagement with the forest is another key aspect of the commons in Mourex. The forest does not pre-exist the community that manages and interacts with it. In other words, it is not a static or inert environment, offering up wood to the *affouagistes* whenever they need; the forest requires continued work and careful even frugal management to keep it healthy and productive according to their needs.

⁹ *Il faut toujours s'en occuper: planter les jeunes pousses, créer les bonnes conditions, puis les récolter au bon moment, etc.*

Furthermore, as is the case with Orilan and the *fete d'automne*, *affouage* is also another example of dwelling, revealing the inter-woven, inter-dependent relationships that exist between the community of Mourex and its environment. Through their work in the forest, the *affouagistes* not only maintain the health of their forest, but also the strength of their community. As one *affouagiste* pointed out, he enjoys *affouage* largely because it “creates community links, it brings people together...” (Simon, 45).¹⁰



Affouagistes working together to maintain the forest, preparing it for the cut.

Another also acknowledged this aspect of *affouage*: “It’s also something social”, he said, “it’s a way to get to know my neighbours better and get involved in village life” (Leon, 33).¹¹

Like the forest, the community is not static, it always needs nourishment and attention – something made possible through the habitual nature of the *affouagistes*’ maintenance of the forest. The commons in Mourex, then, as seen in this example of *affouage*, is made and re-made continually.

These inter-dependent relationships that exist between the community in Mourex and their local environment are emblematic of commons throughout the world; they reveal the kinds of values that are engendered within these kinds of human-environment relations.

Speaking with one *affouagiste*, Theodore, who has been involved in *affouage* since 2006, he described working in the forest as “humbling”:

*Because it’s about our relationship to time, that’s what’s fundamental – it’s this connection with our mortality. And the forest reminds us that, amongst the trees, we are nothing. It takes two human lives to grow a tree; knowing this changes how you understand your place in the world... (Theodore, 44)*¹²

This sense of humility that the forest instils in the *affouagistes* also engenders a sense of responsibility, stewardship and care towards the forest. As Theodore goes on, the whole process of *affouage* is fundamentally about sharing:

10 *Ça crée des liens communautaires, il rassemble les gens quoi.*

11 *Aussi, c’est très social..., c’est un moyen pour mieux connaître mes voisins et aussi de m’impliquer dans la vie du village.*

12 *Parce qu’il s’agit de notre rapport au temps c’est ce qui est fondamental – c’est ce rapport à la finitude. Et la forêt nous rappelle que, chez les arbres, on n’est rien, nous. Il faut deux vies pour faire un arbre... ça change comment toi tu te positionnes dans le monde.*

*The trees that we're cutting today, and that will warm me this winter, it's others who have planted them, and then we plant for the people we don't know yet, who aren't born yet... that gives you a rapport with nature but also with your own existence in a particular community.*¹³

In other words, it is through their ongoing engagements with the forest that the *affouagistes* are given a sense of grounding in a community that is itself embedded in an specific environment; they are therefore at once grateful to the previous generations who have preserved this forest for them, and conscious of their obligation to pass it on to future generations in a healthy condition.

These are the kind of values that are established through a community's connection with an environment that has a shared meaning and history. Whilst we have used the example of *affouage* to illustrate how these values are produced, the same idea translates across every aspect of the commons in Mourex. As Henriette, one long-term inhabitant of Mourex eloquently described:

*There are as many paths leading from the village towards the Mont as there are paths leading from the village towards the rest of the region. So this village is as much turned towards nature as to the rest of the world. These are our values - it comes from being turned towards such incredible nature... (Henriette, 62, resident in Mourex since childhood).*¹⁴

The contemporary role of the section de commune

The role of the *section de commune* exists within this conception of the commons in Mourex. In other words, the *section de commune* now acts less as a means of allocating and managing a circumscribed set of physical resources on the Mont, and more as a *symbol* of the community's inter-dependent connection with Mont Mourex. As long as it remains a legally recognisable institution, it will continue to enable the community to engage with their environment in a meaningful way, including with more modern usages such as mountain biking or horse riding. In short, it will continue to grant the community a power to be heard, to defend what is precious to them.

It is in this regard that there exists in Mourex a general concern to ensure the Mont "remains local" – people fear it becoming "just another tourist destination", disconnected from its community and without "its personality, its soul" (quotes from an interview with Lucie, 33, inhabitant of Mourex). As Maurice explained:

13 *Les arbres qu'on coupe, et qui vont me chauffer cet hiver, c'est d'autres qui les ont plantés, et nous ce qu'on entretient aujourd'hui c'est pour les prochains – c'est d'autres qui vont chauffer avec, tu vois... ça te donne un rapport avec la nature et ton existence dans une communauté qui est particulier.*

14 *Il y a autant de chemins qui amènent du village vers le reste de la région qu'il y a de chemins qui amènent du village vers le Mont. Donc c'est un village qui est autant tourné vers le Mont que vers le reste du monde. Et c'est notre valeur – c'est d'être tournés vers la nature, cette nature incroyable.*

*The less we are local, the more we are inexorably managed by bureaucrats... and it's dangerous to take powers away from the local people... so that the Mont is absorbed by the administration, with its inflexibility and impersonal nature.*¹⁵

As these quotes reveal, there is a deep scepticism and mistrust of bureaucratisation and centralisation, especially with regards to the management of their local environment. They see this wider process as one that dilutes their own local powers, and further alienates them from their own local environment – a process which can have serious consequences. The proposed antenna project, for example, came from a disconnected perspective of the Mont – seen not as a space of meaning, but a potential resource to be exploited.

Indeed, during the protests against the proposed antenna project the community were again made acutely aware of the rights afforded to them via the *section de commune*, and again tried creating a *commission syndicale* to formally represent the *section de commune* and the people of Mourex. In one letter which circulated in the village at this time (see Appendix C) for example, it argued that creating a *commission syndicale* would enable the community to have a clearer sense of their own rights and territory, as well as offer a counterweight against a “very particular evolution happening in the Pays de Gex” – an evolution threatening small communities and rural life more generally, and widely “scorned upon by a growing number of technocrats”.

In the end, the community's efforts to create a *commission syndicale* were not supported by the *Préfecture de l'Ain*. However, the community's recognition of the importance of the *section de commune* has remained strong until today. In 2011, the Mayor of Grilly tried to dismantle the *section de commune*, largely following the same misguided arguments as the current law under discussion by the French senate. Understanding this as an attempt to remove their own local powers over the Mont, the community fought to preserve the *section de commune*. They submitted a widely circulated petition (Appendix D) in official opposition to the project and took the municipal council to the administrative tribunal – following which, the Council of Grilly formally recognised that they could not “change the usage nor sell the section's property without agreement from the majority of the members of the section” (see Council minutes in appendix E).¹⁶

This event reveals the community's will to preserve their *section de commune*, their means to be heard, to defend what is precious to them – Mont Mourex. As one inhabitant and *affouagiste* explained:

“We fought to preserve the section de commune because of that link with the land, and if we abandon it, it's the Communauté des Communes [a conglomeration of municipal communes in the Pays de Gex] that will manage the land, and we feel that this is too much centralisation. Perhaps it will happen at some point, but for the moment, no!” (Edmond, 70).

¹⁵ *Moins on est local, plus on est dirigé par les fonctionnaires, implacablement... Et ça c'est dangereux de retirer les pouvoirs des gens locaux, pour que le Mont soit absorbé par l'administration, avec sa non-flexibilité et son impersonnalité.*

¹⁶ *The French law clearly states that for any change in the usage of the Section, members must be convened and consulted (Code général des collectivités territoriales - Article L2411-6).*

In short, as this last quote reveals, the community is prepared to continue their struggle to preserve their connection with the Mont, and thus the wider commons in Mourex. This will surely remain the case given the current proposed law to dissolve all *sections de commune* in France.

Conclusion

As this report has outlined, the *section de commune* of Mourex is far from being a mere relic of the past, in need of reform – a claim upon which the Republican Party of France justifies their need for dissolution. As a symbol of the community’s profound and ongoing connection with the Mont, its history and its heritage, the *section de commune* remains an important avenue through which people in Mourex can identify with this landscape and preserve it for future generations – to ‘protect it from overexploitation’, from ‘becoming cast in concrete’ (Legros 2020).

In Mourex’s frequent struggles to keep their rights to the *section de commune*, we see a clear struggle against land-grabbing. Time and again, the rights-holders of the *section de commune* have expressed interest in their own land management and the future of this environment, one that shapes them, and that is shaped by them.

Land grabbing is illegal in many countries and typically involves private companies or governments divesting local communities of their common land rights. Such ideas are inconsistent with global treaties, of which France is also a signatory, or with the efforts to ensure that communities today stay in charge of their environment.

For members of the French Senate to want to institutionalise land grabbing by giving Municipal councils the right to dissolve *sections de commune* without consultation, suggests that they no longer value the opinions of the people who own their lands, nor their actions in caring for these lands, or in shaping the French landscape we admire today.

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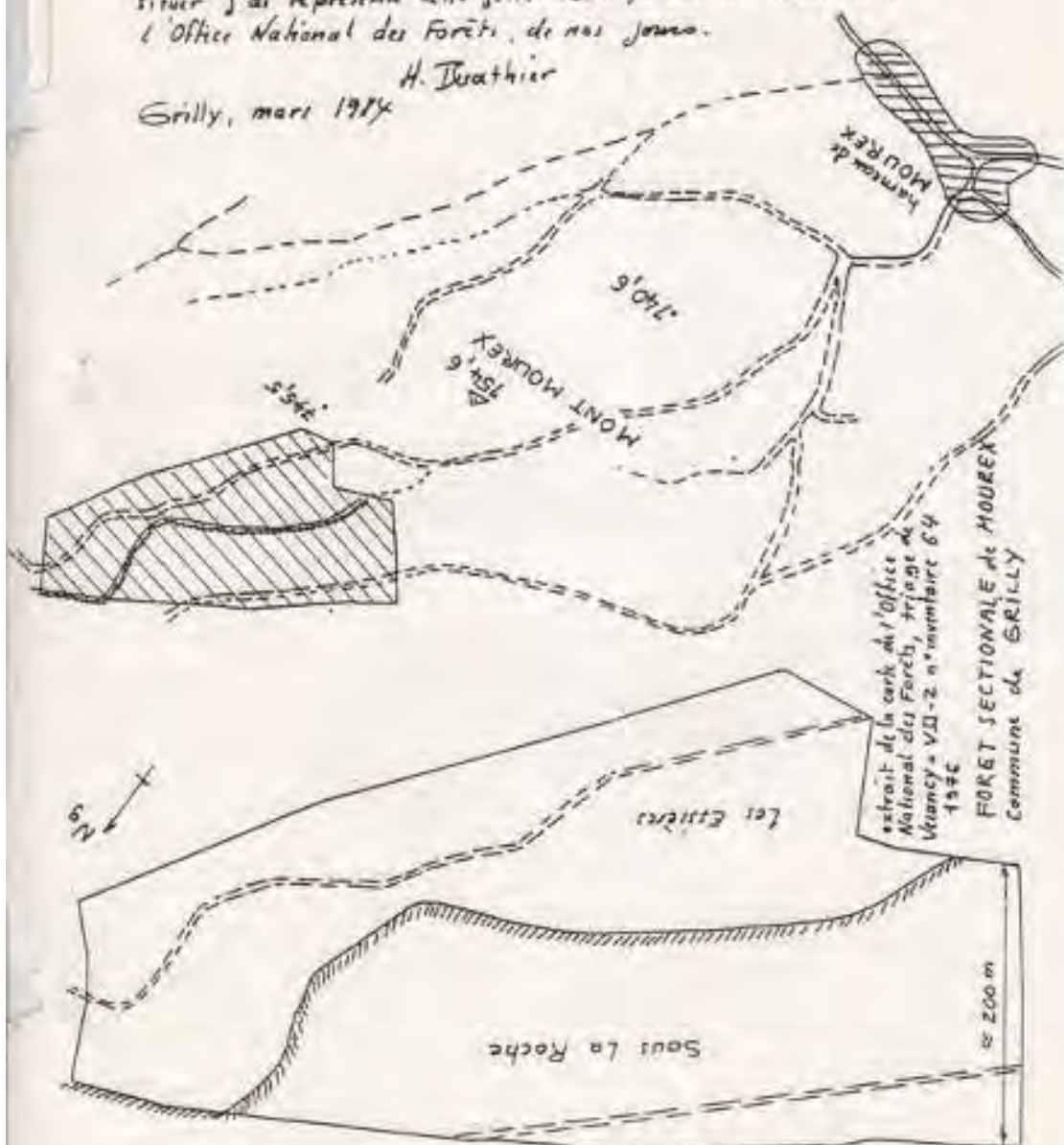
Website of Force de Défense des Droit et Biens des Communautés Villageoises et des Membres de Sections de Commune <http://sectiondecommune.free.fr/>

Notes pour servir l'histoire de Grilly

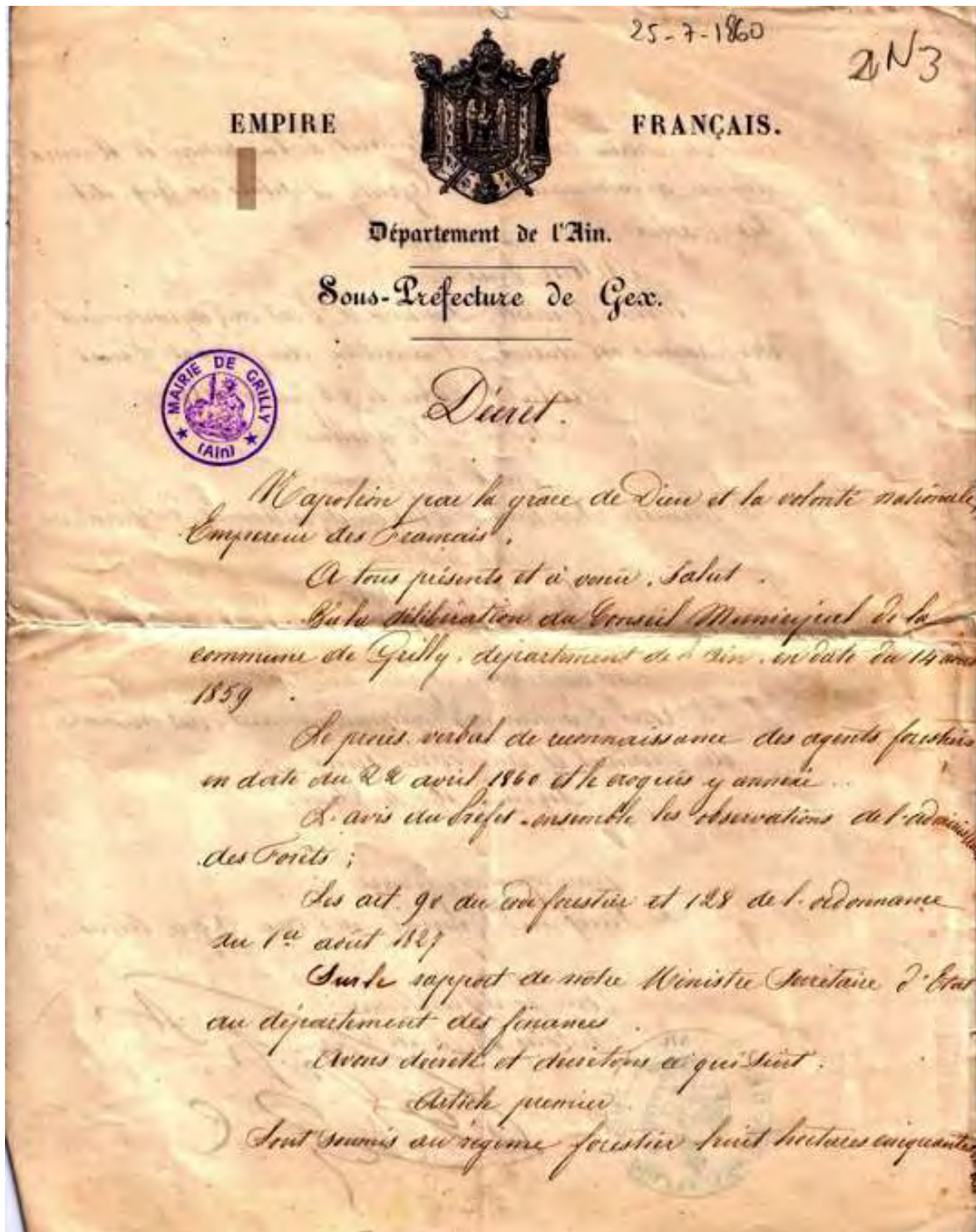
Les hasards des archivages m'ont permis de trouver un extrait du plus vieux plan cadastral concernant la commune de Grilly. Il s'agit de la forêt allouagée de Mourex. (Arch: ANF) Pour la situer j'ai représenté cette zone telle qu'elle est répertoriée à l'Office National des Forêts, de nos jours.

H. Duathier

Grilly, mars 1974



Appendix B



Appendix C

R 10/2/88

La section de commune de Mourex

La section de Mourex est l'une des 16.000 sections de commune qui existeraient en France, chiffre avancé en 1975 par M. Poniatoski, Ministre de l'Intérieur (J.O. du 28.10.1975, page 3087).

"Constitue une section de commune toute partie d'une commune possédant à titre permanent et exclusif des biens ou des droits distincts de ceux de la commune". (art. L 151.1 ali. 1 du code des communes).

La matrice cadastrale de Grilly nous renseigne sur les biens appartenant au hameau de Mourex, il s'agit de diverses parcelles d'une superficie totale de l'ordre de 67 ha. Mourex est également propriétaire d'un marais situé sur la commune de Cessy.

La section de commune possède la personnalité juridique (art. L 151.1 ali. 2). Cela lui permet de se manifester en propriétaire des biens en question, d'en acquérir d'autres, d'accepter des donations, etc.....

Une loi récente du 9 janvier 1985, vient de conforter cette institution fort ancienne en lui accordant une véritable charte dont la citation qui suit en révèle bien l'esprit ainsi que l'unanimité qui s'est dégagée lors de son adoption tant chez les sénateurs que parmi les députés :

"Il est remarquable de constater que les dispositions de cette loi relative à la section n'ont donné lieu pratiquement à aucune discussion publique, les modifications au projet de loi étant apportées en commission. Un large consensus s'est donc bien dégagé sur la réforme de la section.

Le législateur a voulu actualiser des mécanismes de gestion souvent inadaptés et reconnaître une réalité: dans certaines communes, les sections constituent une communauté humaine et vivante, méritant une représentation permanente. Dans ce but, la commission syndicale, qui la représentait et qui n'était convoquée que dans certains cas limitativement énumérés, devient désormais, en règle générale, une institution permanente, élue pour la durée du mandat du Conseil Municipal ". Extrait du livre " La section de commune " G.D. Marillia et R. Beyssac octobre 1987, page 11.

Dés lors la démarche actuelle des électeurs de la section de Mourex, visant la constitution d'une telle commission, apparaît logique et légitime que ce soit en regard de la loi, de l'importance des biens leur appartenant (environ 10% de la superficie de la commune) ou du nombre élevé de personnes à représenter (près du tiers de l'ensemble des électeurs de la commune).

En outre et sans vouloir blesser personne, force est de constater que le Pays de Gex est entrain de subir une évolution toute particulière, parallèle à une pression qui se manifeste de nouveau ouvertement pour diminuer le nombre des communes françaises aux dépens, d'une part, des petites qui se feront manger avidement par les plus grandes, et, d'autre part, de la vie locale campagnarde méprisée par bon nombre de technocrates. Dans ce contexte, il n'est donc pas utopique de penser que l'espérance de vie d'une section de commune telle que Mourex, se mettant au bénéfice des dispositions de la nouvelle loi, est manifestement plus élevée qu'une commune du type Grilly.

.../...

Mais que certains se rassurent, la section de commune reste un propriétaire disposant d'une liberté restreinte dans la gestion de ses biens. D'une manière schématique la gestion courante est du ressort du Maire et du Conseil Municipal tandis que la gestion extraordinaire est de la compétence de la commission syndicale et de son président. En outre, pas de secret, dans la commission syndicale : Le Maire en est membre de droit.

En définitive, nous avons la conviction que l'ensemble de notre commune gagnerait à ce que les choses soient enfin clairement établies et qu'avec une dose de bon sens et de bonne foi majoritaire au Conseil Municipal comme dans la commission syndicale, bien des tensions et dissensions disparaîtraient pour le plus grand bien de notre vie communautaire.

J. Pierre DUPENLOUP

Roger BLANC.

N.B, à toutes fins utiles :

Nous avons pensé que cette notice d'information sur la section était susceptible d'intéresser l'ensemble de la commune et donc d'être incluse, à nos frais, dans le bulletin d'information communal. Malheureusement, le responsable de la rédaction, M. Colin, n'a pu que refuser cette demande lorsque ce texte lui a été soumis en décembre 1987 à l'état de projet, car cette insération, émanant d'un particulier, aurait été contraire à une décision prise par le Conseil Municipal il y a quelques années.

Ne mettant pas en cause la sagesse liée tant à cette décision qu'à la réponse de M. Colin, nous avons saisi l'occasion du rebondissement de l'affaire T.D.F. pour diffuser ces quelques lignes relatives à la section de commune, et, plus particulièrement, celle de Mourex.

Appendix D, first page

**PETITION des ayants-droit de la section de commune
du hameau de MOUREX 01220 GRILLY**

La section de commune dite des habitants de Mourex, possède à titre permanent et exclusif des biens et des droits distincts de ceux de la commune de GRILLY. Son patrimoine est principalement composé d'environ 76 hectares de bois et pâturages, gérés dans l'intérêt général des habitants.

le conseil municipal a, par délibération du 7/11/2011, sollicité du représentant de l'Etat dans le département le transfert à titre gratuit de ces biens à la commune de Grilly.

Les soussignés, ayants-droit de la section de commune de Mourex, qui disposent de droits patrimoniaux sur ces biens (CE du 22 juillet 2011), tiennent à manifester leurs intérêts pour ce patrimoine commun et faire savoir leur opposition à tout projet de transfert des biens dits des habitants de Mourex à la commune de Grilly.

Ils se déclarent solidaires des actions menées par MM Dupenloup, Fourcade et Huriet, à l'encontre de ce projet d'usurpation

A Mourex le 1 mars 2012

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Appendix E

REPUBLIQUE FRANÇAISE

DÉPARTEMENT

AIN

CANTON

GEX

Commune de

GRILLY

COMPTE-RENDU DU CONSEIL MUNICIPAL DU 30/06/2014 À 20H00

L'an deux mille quatorze, le trente juin à vingt heures, le Conseil municipal de Grilly s'est réuni en séance ordinaire, sur convocation en date du 25 juin 2014 et sous la présidence de Judith HEBERT, Maire.

Présents : Judith HEBERT, Christine DUPENLOUP, Christian DUJARDIN, Jérôme MORILLERE, Serge BLANC, Catherine de VIALET-CASERIG, Géraldine HAMARD, Vinciane HARDY, Monique BERRIA, Patrick DECOSTAIRE, Christine NOTELLE, Clara ROMANO, Françoise TOUILLIER-SCHREYER, Yves TERISSE, Jean-Jacques VANDEN BROEK.

Procurations : Géraldine HAMARD (à Christian DUJARDIN)

Le quorum étant atteint, l'Assemblée peut valablement délibérer.

La séance est ouverte à 20h00.

Secrétaire de séance : Vinciane HARDY, (assistée : Sylvie RIF-JACQUEMET)

Approbation du compte-rendu du Conseil Municipal du 19/05/2014

La Présidente de séance, Judith HEBERT demande au Conseil d'approuver le compte-rendu du Conseil Municipal du lundi 19 mai 2014.

Après en avoir délibéré, les membres du Conseil Municipal ont émis les voix suivantes :

POUR : 15

CONTRE : 00

ABSTENTION : 00

LE CONSEIL MUNICIPAL A APPRUEVE CE COMPTE-RENDU.

Délibération n°1 : Section de Commune du hameau de Mourex

Christian DUJARDIN rappelle que par délibération 2011-42 du 7 novembre 2011, la Commune de Grilly a demandé au Préfet de statuer sur le transfert des biens de la section de commune du hameau de Mourex. Puis par une seconde délibération 2011-43, prise à la même date, le Conseil décidait la création d'une commission extramunicipale pour la gestion de la forêt.

Le 9 janvier 2012, le Tribunal administratif de Lyon est saisi par MM. FOURCADE, HURIET et DUPENLOUP pour demander l'annulation des délibérations 2011-42 et 2011-43.

Suite à l'audience du 20 mars 2014, et statuant publiquement le 3 avril 2014, le Tribunal administratif de Lyon a annulé la délibération 2011-43 et condamné la Commune à verser à MM. FOURCADE, HURIET et DUPENLOUP ensemble la somme de 800 €.

Christian DUJARDIN expose que le Préfet ne s'est toujours pas positionné sur la question du transfert des biens de la section et que le Conseil souhaite sortir de cette situation. Christian DUJARDIN précise que les motifs mentionnés dans la délibération 2011-42 ont fait, par ailleurs, l'objet d'une jurisprudence défavorable aux communes ayant demandé le rattachement des biens de section de commune.

Le Tribunal Administratif ayant annulé la délibération 2011-43 portant création de la commission extra-communale, Christian DUJARDIN propose d'annuler également la délibération 2011-42 relative au transfert des biens.

Christian DUJARDIN indique que l'article L.2411-5 du code des Collectivités territoriales prévoit

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N°1 – 2020. Politique d'élevage ovin, pratiques et raisons des éleveurs. Étude du cas Suisse romande. *Hélène Weber*

N°2e – 2020. *The section de commune of Mourex, France. A “power to be heard, to defend what is precious to us”.* *George Smith*

N°2f – 2020. *La section de commune of Mourex, France. « Le pouvoir d'être entendu, de défendre ce qui est précieux ».* *George Smith*

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