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STATE OF WISCONSIN	WISCONSIN EMPLOYMENT RELATIONS COMMISSION	POLK COUNTY
	CIRCUIT COURT	
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City of Amery, a Wisconsin Municipal Corporation, Plaintiff,  vs. Wisconsin Employment Relations Commission,  Defendant.	) ) ) ) ) ) ) ) ) )	DECISION File No. 85 CV 649  Decision No. 22849
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The Wisconsin Professional Police Association has filed a petition with Defendant seeking final and binding arbitration of its impasse in labor negotiations with Plaintiff City of Amery. Plaintiff City has requested Defendant herein to dismiss said petition. Defendant, after due consideration, has denied Plaintiff's motion to dismiss and Plaintiff City seeks a judicial review of said denial.

The Defendant Wisconsin Employment Relations Commission has erroneously interpreted the clear language of the applicable statutes and their denial of Plaintiff City's motion to dismiss must be set aside.

The manifest intent of the legislature in adopting Section 111.77 of the Wisconsin Statutes was to provide for an impasse resolution mechanism for communities that exceed 2,500 in population and to exempt those small communities under 2,500. The legislature went on to define "population" at section 990.01(29) Wisconsin Statutes as follows:

"Population" means that shown by the most recent regular or special federal census.

It is undisputed that the most recent census was conducted in 1980 and the population of Amery was 2404.

Defendant Commission relies upon Wisconsin Department of Administration estimates to conclude that the population of Plaintiff City of Amery exceeds 2,500 yet totally disregards section 16.96 Wis. Stats. in so far as it specifically provides that such official estimates ". . . do not supercede s. 990.01(29)."

In this Court's opinion, the manifest intent of the legislature in adopting Section 111.77(8) was to exempt from binding arbitration small towns, villages, and cities in rural Wisconsin.

The legislature provided a sure yet simple basis for making the population determination, namely the population ". . . shown by the most recent regular or special federal census." See again section 990.01(29) Wis. Stats.

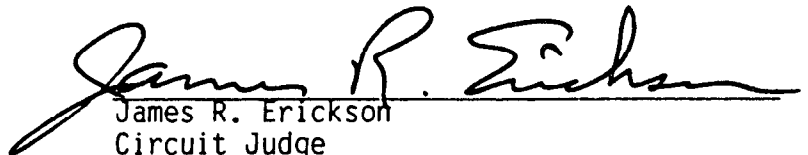
If the legislative intent is in fact something different it should be expressed by the legislature by future legislation. To adopt Defendant Commission's interpretation of legislative intent would be to encourage further instability and uncertainty and would tend to further complicate life in our small rural communities throughout Wisconsin. It is little wonder that the lay citizen is disgusted with the justice system when we keep suggesting to laymen and city councils that the words that they see in black and white in the statute books don't really mean what they say because when the legislature put those words down they really meant something else.

I surmise that the Commission was partially convinced to adopt its interpretation of legislative intent by the prospect that a strict construction of the statutes would mean an impasse would exist until the next federal census. Reality in a small community is something different. In a small community the citizenry has an opportunity to be fully aware of local issues and municipal elections are effective instruments to reflect the views of the voters.

Counsel for Plaintiff may prepare an appropriate Order in accordance with this decision.

Dated at Balsam Lake, Wisconsin, this 10th day of March, 1986.

BY THE COURT:

A handwritten signature in cursive script, reading "James R. Erickson", written over a horizontal line.

James R. Erickson  
Circuit Judge  
Polk County, Wisconsin