

MEREDITH, C.J.C.P.

OCTOBER 19TH, 1918.

*RE HOMAN AND CITY OF TORONTO.

*Municipal Corporations—Gift of Money to "Catholic Army Huts"
—Resolution of City Council—Ultra Vires—Resolution Passed
in 1918—Money Payable in 1919—Statutory Powers of Coun-
cils—"Aid to any Charitable Institution"—Municipal Act,
sec. 398 (5).*

Motion by Albert William Homan for an order quashing a resolution of the Council of the City of Toronto, authorising payment out of the municipal funds of the city of a sum of \$15,000 to a company incorporated under the Canada Companies Act under the name of "Catholic Army Huts," for the purpose of erecting, equipping, and conducting "Catholic Army Huts for Canadian soldiers, which shall serve the twofold purpose of chapels for Catholic soldiers and recreation huts for all soldiers, irrespective of creed, and to supply Catholic chaplains in the Canadian Overseas Forces and in the Canadian Militia with rosaries, medals, prayer-books, and similar devotional aids for distribution to Catholic soldiers."

The motion was heard in the Weekly Court, Toronto.

T. R. Ferguson, for the applicant.

Irving S. Fairty, for the city corporation.

MEREDITH, C.J.C.P., in a written judgment, said that the gift was invalid because it was not within the powers of the city council. It was ultra vires, in the first place, because the council of the year 1918 had no power to require or authorise the raising of the money and payment of it in the year 1919; and, according to the terms of the gift, it could be "raised in the taxes of 1919," and necessarily could be paid out of moneys so raised only.

The gift was invalid also on the ground that no municipal council has power to make such a gift. If such a power exists, it must be conferred by statute. Section 398 of the Municipal Act, R.S.O. 1914 ch. 192, provides that "by-laws may be passed by the councils of all municipalities . . . (5) for granting aid to any charitable institution or out-of-door relief to the resident poor." These words did not cover the gift; and no other statute was referred to, nor could any be found which was applicable.

The resolution should be quashed with costs.