

Strafford, }  
Jan. 3, 1939. } No. 3043.

JOSEPH DONDERO & a. v. MARY FERRANTI.

*Hughes & Burns*, by brief, for the plaintiffs.

*Thomas J. McGreal* and *Frank E. Blackburn*, by brief, for the defendant.

*Per Curiam.* This is a proceeding in which a common-law action of tort for embezzling funds and securities has been amended by a bill in equity for an accounting. The court's finding that justice required the allowance of the amendment is not to be set aside merely because the defendant thereby lost her right to a jury trial of the action at law. A suit for an accounting has advantages over an action at law, when, as claimed here, an accounting by the defendant is necessary to ascertain the extent of her indebtedness. Equity does not lose its jurisdiction over accounting and discovery by reason of the common law's adoption of equitable principles. *Berry v. Whidden*, 62 N. H. 473, 476.

*Exceptions overruled.*

Hillsborough, }  
April 4, 1939. } No. 3018.

STEWART HARKINSON, by his father and next friend v. MANCHESTER.

*Doyle & Doyle* (Mr. Paul J. Doyle orally), for the plaintiff.

*William H. Craig* and *O'Connor & Sidel* (Mr. D. Frederick O'Connor orally), for the defendant.

*Per Curiam.* This case is governed by the rule stated in *Piasecny v. Manchester*, 82 N. H. 458. Whether contemporary expansions of the field of governmental activities demand a corresponding expansion of the scope of municipal liability for the manner of performing public duties, is a matter for legislative rather than judicial determination.

*Exception overruled.*

Cheshire, }  
May 31, 1939. } No. 3074.

EDWARD ROBBINS *v.* ARTHUR B. NIMS.