the foregoing Petition, and was returned by the Sheriff, "Summoned omnes"; and a commission to assign guardian for these infants was thereupon issued, and a guardian ad litem appointed for them, who filed their answer to the petition in usual form.

Note:- The Auditor's account, ratified February 9th. 1861, allows the trustee $925.47 out of the proceeds of sale, for taxes, whereof $887.04 was for the Gilmor street paving, and $38.43 for current assessment

Opinion.

(Filed 4th Oct. 1889.)

Roche et al., vs. Waters et al.	In the Circuit Court of Baltimore City. (Opinion.)

The ground upon which the jurisdiction of a Court of Equity is invoked, can only be determined by an inspection of the bill itself, and depends upon its allegations.

Testing the bill filed in the case of Hitch vs. Davies, which is the subject of review under the question of law raised in this case by this rule, it is, I think, clear, that it was filed under the jurisdiction conferred by these provisions of the Statute which were afterwards incorporated in § 36, Art. 16. of the Code of 1860.

If this be so, it is equally clear, both upon the face of the Statute, and the authority of Hunter vs. Hatton, 4 Gill, that the infants, William F. Waters

and Mary Augusta Waters, were not made parties to that Cause in the manner required by law, and hence are not bound by the decree.

The unreported case of Ridgely vs. Barton, 67 Md., whose authority has been strenuously insisted upon by the solicitors for the plaintiffs in this case, does not conflict with this conclusion.

In that case the Court distinctly put its decision upon the ground that the infants had been properly made parties under the original bill, and that at the time of the passage of the final decree, all the parties and the entire subject matter were before the Court. Moreover, it will be observed that in that case, so much of the decree as provided for an exchange of a portion of the property was but a preliminary step to the final action under the decree, viz: a sale of the whole; in other words, the provision for a partial exchange in order that the whole might be sold, was altogether incidental and subordinate to the main relief sought in the original bill.

J. Upshur Dennis.

Petition of Plaintiffs Assent, and Order Thereon.

(Filed 4th Oct. 1889.)

Roche et al., vs. Waters et al.	In the Circuit Court of Baltimore City.

To the Honorable Judge of said Court:

The plaintiffs respectfully show, that they have