

"not revise or control their discretion. The trustee can-
 "not, however, exercise his discretion for any fraudu-
 "lent, selfish, or improper purpose, nor can he refuse to
 "exercise a discretionary power for such purpose; and if
 "he acts or refuses to act upon such grounds, the court
 "will interfere and give a remedy to the parties injured
 "by the fraudulent act or refusal to act." Perry on Trusts,
 § 511.

This brings us to the discussion of a case, much relied
 on by the complainants, but which does not sustain their
 right to the relief they have prayed. On the contrary, it
 establishes principles utterly at variance with those which
 are necessary for them to maintain. We refer to the case
 of *Topham v. Duke of Portland*, reported in 31 Beavan
 525; 1 De Gex, Jones & Smale, 517; 11 H. L. Cases, 32;
 5 Chancery Appeal Cases, 40. We will analyze it, in order
 to show :—

Its facts.

The principles of law it decided.

Its want of similarity to our case.

As to the facts.

The old Duke of Portland conveyed certain property by
 deed of trust to his son, the present Duke, and authorized
 him to appoint it between two of his daughters, Harriet
 and Mary, or to appoint it to one in exclusion of the other,
 and subject to such restrictions as the donee of the power
 might think fit. Before this, it had come to the knowledge
 of the Duke that his youngest daughter, Lady Mary, had
 entertained proposals of marriage from Col. Topham. He
 did not think fit to approve of the match, and strongly ex-
 pressed his opinion, threatening that he would, so far as
 he had the power, leave away everything from her. She
 promised not to marry in his lifetime. Nothing appears to
 have been said by the late Duke, before the creation of
 the power, as to the manner of its exercise. No previous

