

context indicates otherwise, the use of the word "shall", except where it implies the future tense, is generally taken as imposing a mandatory obligation. The legislative history of the Act, the effect of one construction as against another and the character of the Act itself are to be given consideration in the interpretation of the law. 2 Sutherland on Statutory Construction, 3rd Ed., Section 2803. While the application of the rules of statutory construction often presents difficulty, it is said that one of the places where the rules for the construction of statutes as mandatory or directory have been most clearly defined is with respect to provisions directing action or conduct on the part of public officers. Where statutes provide for the doing of acts or the exercise of power or authority by public officers, and private rights or the public interests require the doing of such acts or the exercise of such power or authority, they are mandatory, regardless of whether they are phrased in imperative or permissive terms. 3 Sutherland on Statutory Construction, 3d Ed., Section 5808. That learned author cites, among others, the case of *Supervisors of Rock Island County v. United States*, 4 Wall. 435, 18 L. Ed. 419. There, the Illinois statute involved provided that the Board of Supervisors under township organizations owing debts which their current revenue was insufficient to pay "may, if deemed advisable" levy a special tax to be collected and placed in a separate fund. It was contended that the authority given by law involved no duty but merely authorized the exercise of judgment upon the part of the Supervisors, and that judicial action could not control the discretion with which the statute had clothed them. The Supreme Court of the United States rejected that contention and said:

"The conclusion to be deduced from the authorities is, that where power is given to public officers, in the language of the act before us, or in equivalent language — whenever the public interest or individual rights call for its exercise — the language used, though permissive in form, is in fact peremptory. What they are empowered to do for a third person the law requires shall be done. The power is given, not for their benefit, but for his. It is placed with the depositary to meet the demands of right, and to prevent a failure of justice. It is given as a remedy to those entitled to invoke its aid, and who would otherwise be remediless.