

“In all such cases it is held that the intent of the Legislature, which is the test, was not to devolve a mere discretion, but to impose a positive and absolute duty.

“The line which separates this class of cases from those which involve the exercise of a discretion, judicial in its nature, which courts cannot control, is too obvious to require remark.***”

In applying these rules to the Act before us, it is pertinent to inquire into the meaning and purpose of this law, and, if it is not mandatory, the resulting effect of its enactment. At the outset it may be observed that unless the Act of 1945 is mandatory, it is difficult to perceive that it added anything to the existing law, because Section 127 of Article 41 furnished the necessary authority for public officials to deposit their records with the Commission. We are forbidden to conclude that the Act of 1945 is meaningless and that no significance can be attributed to it. The Act was intended to gather into one place the ancient public records to which it refers in order to preserve them against the ravages of time and the hazards of fire and theft. Its title, after reciting that it enacts a new Section to be known as Section 126A of Article 41 of the Code, gives its purpose as “directing the transfer to the Hall of Records Commission of all papers, records and documents in the Court Houses of the State, which were made prior to April 28th, 1788 * * * .” The preamble of the Act recites that many of these records are in need of repair and are not sufficiently safeguarded against fire and deterioration, that the Hall of Records is equipped for the proper filing, storage and indexing thereof, and that it is desirable to have a central place in which they may be preserved and safeguarded from fire and other hazards. Then follow the provisions which state in terms that those records “shall be transferred as soon as practicable” to the Hall of Records Commission.

The preservation of those ancient records of the colonial days is surely a matter of great public interest. Their loss by fire could not be compensated by insurance. The State recognized the need for an adequate repository and as a result it constructed and equipped, at great public expense, the Hall of Records Building at the seat of government at Annapolis. After operating for a decade under a law by which every public official was “authorized and empowered, in his discretion” to deposit his records with the State, it was felt, no doubt,