

CHAPTER II.

PROCEEDINGS BEFORE MAGISTRATES FOR THE PURPOSE OF
PREVENTING OFFENCES.

ARTICLE 80. Whenever a Magistrate is informed upon oath, that an offence is about to be committed against the person or property of the informant, or of another, or that any person has threatened to commit such offence, it is his duty immediately to issue a warrant for the arrest of the accused, that he may be brought before such Magistrate, or before some other named in the warrant.

ART. 81. When the person accused has been brought before the Magistrate, he shall hear proof as to the accusation, and if he be satisfied that there is just reason to apprehend that the offence was intended to be committed, or that the threat was seriously made, he shall make an order that the accused enter into bond in such sum as he may in his discretion require, conditioned that he will not commit such offence, and that he will keep the peace towards the person threatened, or about to be injured, and towards all others, for one year from the date of such bond.

ART. 82. If the defendant refuse to give bond, he shall be committed to the jail of the county, or if there be no jail, to the custody of the Sheriff.

ART. 83. The warrant issued by a Magistrate in cases provided for in Articles 75 and 80, shall be sufficient if it state the name of the defendant, or, if unknown, describe him, and set forth in plain words the nature of the accusation against him, be signed by the Magistrate and dated.

ART. 84. The bond taken by the Magistrate in the cases provided for in Article 81, shall be sufficient if it be payable to the State of Texas, recite plainly the nature of the accusation against the defendant, be for some certain sum, and be signed by the defendant and his surety, and dated.

No error of form shall vitiate such bond, and no error in the proceedings, prior to the execution of the bond, shall be available as a defence in an action thereupon.

ART. 85. If the Magistrate be of opinion from the evidence, that there is no good reason to apprehend that the offence was intended or will be committed, or that no serious threat was made by the defendant, he shall discharge the person so accused, and may, in his discretion, tax the cost of the proceeding against the party making the complaint.

ART. 86. If the accused be committed for refusing or failing to give bond, he shall be discharged by any Magistrate upon his afterwards entering into bond in such amount as was fixed by the Magistrate who committed him.

ART. 87. If the condition of the bond be forfeited, it shall be sued upon in the name of the State of Texas, by the District Attorney, and the full amount of the same may be recovered against the principal and sureties.

ART. 88. Actions upon such bonds shall be commenced within two years from the breach of the same, and shall be governed by the rules applicable to civil actions, except that the sureties may be sued without joining the principal. It shall only be necessary in order to entitle the State to recover, to prove that the defendant did commit the offence which he bound himself not to commit, or failed to keep the peace according to his undertaking.

ART. 89. A surety upon any such bond may, at any time before a breach thereof, exonerate himself from the obligation of the same, by delivering to the Magistrate the person of the defendant, and the Magistrate shall, in that case, again require of the defendant bond with other surety, and the same proceedings be had as in the first instance.

ART. 90. Magistrates taking bonds under the provisions of this Chapter, shall be governed as to the amount of the bond by the pecuniary circumstances of the accused, and the nature of the offence threatened or about to be committed.— And they shall require the sureties of a defendant to make oath as to the value of their property, in the manner pointed out with regard to recognizances and bail bonds.

ART. 91. When the information given to the Magistrate is that the defendant has threatened the life of a person, he shall, in addition to the bond heretofore spoken of, require

also of the defendant a bail bond with security, conditioned that he will appear at the next term of the District Court of the county to answer the accusation, which bail bond shall be filed with the Clerk of the District Court, shall have the same force as other bail bonds, and may be forfeited in the same manner.

ART. 92. When, from the nature of the case and the proof offered to the Magistrate, it may appear necessary and proper, he shall have a right to order any peace officer to protect the person or property of any individual threatened; and such peace officer shall have the right to summon aid by requiring any number of citizens of his county to assist in giving the protection.

ART. 93. The District Court, when in session, may, upon complaint made, cause the arrest of any person who might be arrested by a Magistrate under the provision of any of the preceding Articles, and require such person to enter into recognizance for the same purposes for which a Magistrate may require bond, may commit in default of security or discharge, according to the nature of the case.

ART. 94. All persons have a right to prevent the consequences of theft, by seizing any personal property which has been stolen, and bringing it with the supposed offender, if he can be taken, before a Magistrate for examination, or delivering it to a peace officer for that purpose. To justify such seizure there must, however, be reasonable grounds to suppose the thing to be stolen, and the seizure must be openly made, and the proceedings had without delay.

ART. 95. If any person shall make oath, and shall convince the Magistrate that he has good reason to believe that another is about to publish, sell, or circulate, or is continuing to sell, publish, or circulate any libel against him, or any such publication as is made an offence by the Penal Law of the State, the person accused of such intended publication may be required to enter into bond not to sell, publish, or circulate such libellous publication, and the same proceedings be had as in the cases before enumerated in this Chapter. In case the accused is found subject to the charge and required to give bond, the cost of the proceeding shall be taxed against him.