

FLOGGING AT THE GAOL.

WAIVING the constitutional question, no one doubts that in order to justify the corporal castigation of a recaptured prisoner, there must be some written law somewhere. Granting that the Legislative Assembly has power to impose the lash as a part of prison discipline, and that it has power to delegate to the sheriff, or the Lieutenant-Governor-in-Council the right to frame rules under which it is to be applied, there does not appear to be either statute, order-in-council, or rule which assumes to permit whipping of prisoners. Under Con. Stat. Man. c. 7, ss. 53-57, rules may be made for the maintenance of order, the duties of the gaoler and turnkeys, and with regard to all matters necessary for the proper security and the due ordering of the gaol. Under this statute rules have been made and approved of by the Lieutenant-Governor-in-Council. Those of them which relate to the penalty for attempted escapes or to the infliction of punishment for any offence, are as follows:—

18. The punishments allowed in the gaol for breaches of discipline shall be:—

- (No. 1.) The hard bed, with sufficient covering for the season of the year, for an indefinite period.
- (No. 2.) Bread and water diet for a period of not more than five consecutive days.
- (No. 3.) Dark cell, and ball and chain.
- (No. 4.) Chained to the floor.

21. Prisoners attempting to escape and thereby endangering their lives will be subject, *under the statutes*, to a further term of imprisonment.

It will be seen that flogging has not been sanctioned as a punishment for any offence, and that the penalty for an attempted escape is a further term of imprisonment. This further term of imprisonment must be awarded after trial, and the law has provided the tribunal. An attempted escape is a misdemeanor; and one accused must be tried and condemned, for this, as for all other crimes. No power is given to the gaoler, or even the attorney-general, to convict without information, evidence, or the presence of the prisoner.