THECLA, St, virgin, is commemorated by the Latin Church on September 23. The *Breviary* relates that she was born of illustrious parentage at Iconium, and came under the personal teaching of the apostle Paul. In her eighteenth year, having broken her engagement with Thamyris, to whom she had been betrothed, she was accused by her relations of being a Christian, and sentenced to be burned. Armed with the sign of the cross, she threw herself upon the pyre, but, the flames having been extinguished by a sudden rain, she came to Antioch, where she was exposed to the wild beasts, then fastened to bulls that she might be torn asunder, then thrown into a pit full of serpents, but from all these perils she was delivered by the grace of Christ. Her ardent faith and her holy life were the means of converting many. Returning once more to her native place, she withdrew into a mountain solitude, and became distin­guished by many virtues and miracles, dying at the age of ninety. She was buried at Seleucia.

The substance of the foregoing narrative, with many other curious incidents, occurs in the very ancient apocryphal book entitled the περιόδoι of Paul and Thecla (*Acta Pauli et Theclæ).* Tertullian tells us that this work was written by a presbyter in Asia, “out of love to Paul,” but that his conduct was not ap­proved, and led to his deposition. What caused special offence was its recognition of the right of women to preach and baptize. There is no doubt that the present differs very considerably from the original form of the *Acta,* but even now its Gnostic origin is betrayed in several features which it still retains—for example, the rejection of marriage. For the text, see the *Acta Apost. Aρocr.* of Tischendorf, who in the Prolegomena gives a large body of evidence for its great antiquity. A translation is given in the *Ante-Nicene Christian Library.*

THEFT is, in modern legal systems, universally treated as a crime, but the conception of theft as a crime is not one belonging to the earliest stage of law. To its latest period Roman law regarded theft *(furtum)* as a delict *prima facie* pursued by a civil remedy,—the *actio furti* for a penalty, the *vindicatio* or *condictio* for the stolen property itself or its value. In later times, no doubt, a criminal remedy to meet the graver crimes gradually grew up by the side of the civil, and in the time of Justinian the criminal remedy, where it existed, took precedence of the civil (*Cod*., iii. 8, 4). But to the last criminal proceedings could only be taken in serious cases, *e.g.,* against stealers of cattle *(abigei)* or the clothes of bathers *(balnearii).* The punishment was death, banishment, or labour in the mines or on public works. In the main the Roman law of theft coincides with the English law. The definition as given in the *Institutes* (iv. 1, 1) is “ furtum est contrectatio rei fraudulosa, vel ipsius rei, vel etiam ejus usus possessionisve,” to which the *Digest* (xlvii. 2, 1, 3) adds “lucri faciendi gratia.” The earliest English definition, that of Bracton (150*b*), runs thus: “furtum est secundum leges contrec­tatio rei alienæ fraudulenta cum animo furandi invito illo domino cujus res illa fuerit.” Bracton omits the “lucri faciendi gratia ” of the Roman definition, because in English law the motive is immaterial,@@1 and the “usus ejus posses­sionisve,” because the definition includes an intent to de­prive the owner of his property permanently. The “ animo furandi ” and “ invito domino ” of Bracton’s definition are expansions for the sake of greater clearness. They seem to have been implied in Roman law. *Furtum* is on the whole a more comprehensive term than theft. This difference no doubt arises from the tendency to extend the bounds of a delict and to limit the bounds of a crime. Thus it was *furtum* (but it would not be theft at English common law) to use a deposit of pledge contrary to the wishes of the owner, to retain goods found, or to steal a human being, such as a slave or *filius familias* (a special

form of *furtum* called *plagium).* The latter would be in English law an abduction under certain circumstances, but not a theft. On the other hand, one of two married persons could not commit *furtum* as against the other, but theft may be so committed in England since recent legislation. As a *furtum* was merely a delict, the *obligatio ex delicto* could be extinguished by agreement between the parties ; it will be seen that this cannot be done in England. In another direction English law is more con­siderate of the rights of third parties than was Roman. As will appear hereafter, the thief can give a good title to stolen goods ; in Roman law he could not do so, except in the single case of a *hereditas* acquired by *usucapio.* The development of the law of *furtum* at Rome is historically interesting, for even in its latest period is found a relic of one of the most primitive theories of law adopted by courts of justice : “ They took as their guide the measure of vengeance likely to be exacted by an aggrieved person under the circumstances of the case” (Maine, *Ancient Law,* ch. x.). This explains the reason of the division of *furtum* into *manifestum* and *nec manifestum.* The mani­fest thief was one taken red-handed,—“ taken with the manner,” in the language of old English law. The Twelve Tables denounced the punishment of death against the manifest thief, for that would be the penalty demanded by the indignant owner in whose place the judge stood. The severity of this penalty was afterwards mitigated by the prætor, who substituted for it the payment of quad­ruple the value of the thing stolen. The same penalty was also given by the prætor in case of theft from a fire or a wreck, or of prevention of search. No doubt the object of this large penalty was to induce injured persons to refrain from taking the law into their own hands. The Twelve Tables mulcted the non-manifest thief in double the value of the thing stolen. The actions for penalties were in addition to the action for the stolen goods them­selves or their value. The quadruple and double penalties still remain in the legislation of Justinian. The search for stolen goods, as it existed in the time of Gaius, was a survival of a period when the injured person was, as in the case of summons *(in jus vocatio),* his own executive officer. Such a search, by the Twelve Tables, might be conducted in the house of the supposed thief by the owner in person, naked except for a cincture, and carrying a platter in his hand, safeguards apparently against a violation of decency and against any possibility of his making a false charge by depositing some of his own property on his neighbour’s premises. This mode of search became obsolete before the time of Justinian. Robbery *(bona vi rapta)* was violence added to *furtum.* By the *actio vi bonorum raptorum* quadruple the value could be recovered if the action were brought within a year, only the value if brought after the expiration of a year. The quadruple value, it is to be noted, included the stolen thing itself, so that the penalty was in effect only a triple one. It was inclusive, and not cumulative, as in *furtum.*

In England theft appears to have been very early regarded by legislators as a matter calling for special attention. The pre-Conquest compilations of laws are full of provisions on the subject. It is noticeable that the earlier ones appear to regard theft as a delict which may be compounded for by payment. Considerable distinctions of person are made, both in regard to the owner and the thief. Thus, by the laws of Ethelbert, if a freeman stole from the king he was to restore ninefold, if from a freeman or from a dwelling threefold. If a theow stole, he had only to make a twofold reparation. In the laws of Alfred ordinary theft was still only civil, but he who stole in a church was punished by the loss of his hand. The laws of Ina named as the penalty death or redemption accord-

@@@1 Thus destruction of a letter by a servant, with a view of suppress­ing inquiries into her character, makes the servant guilty of larceny in English law.