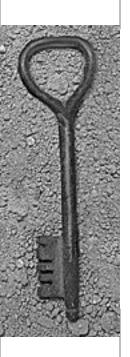
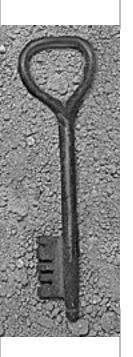


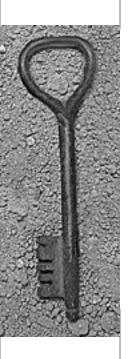
- ♦ Whether the standard of reasonableness is subjective or objective.
- ♦ Source of the threat.
- Whether the threat should be imminent.
- ♦ Whether the defense should be excluded for certain types of crimes (e.g. homicide).
- ♦ Whether particular types of threats are required.
- ♦ Whether the defendant should be free from fault.



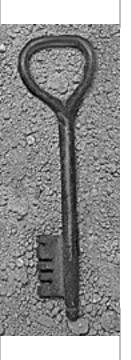
- ♦ Whether the standard of reasonableness is subjective or objective.
  - Common Law: Reasonable fortitude
  - MPC: Reasonable firmness



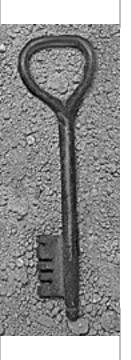
- ◆ Source of the threat.
  - Most jurisdictions require that the source of the threat be another person.



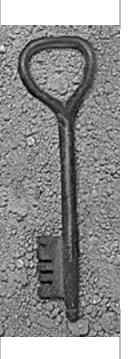
- ♦ Whether the threat should be imminent.
  - Common Law: Present, imminent & Pending
  - -MPC: -----



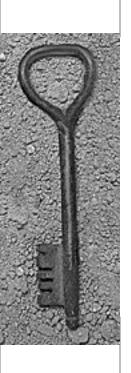
- ♦ Whether the defense should be excluded for certain types of crimes.
  - Common Law: Homicide (including felony murder?)
  - -MPC: -----



- ♦ Whether particular types of threats are required.
  - Common Law: Death or serious bodily harm.
  - MPC: Unlawful force.



- ♦ Whether the defendant should be free from fault.
  - Common Law: Yes
  - -MPC: Sort of.
    - Reckless: Defense is barred.
    - Negligence: Negligence Mens Rea



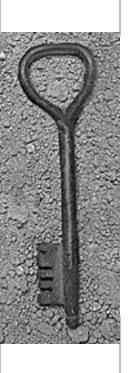
### **Definitions**

#### ♦ Competency:

 Person, as a result of a mental disease or defect lacks capacity to understand the proceedings against him/her or to assist in defense.

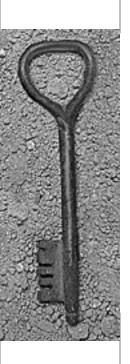
#### ♦ Execution:

- Ford v. Wainwright (1986): bar on execution of insane.
- Atkins v. Virginia (2002): bar on execution of the mentally retarded.



# M'Naghten (p. 879)

- ◆ Defect of reason or defect of mind; and
  - Did not know the nature of the act, or
  - Knowing the nature of the act, did not know that it was wrong.
- ◆ Problems with test:
  - Complete impairment
  - Restriction to impairment of cognition
  - Artificial restriction on expert testimony



# MPC §4.01

◆ As a result of a *mental disease or defect* he or she lacked *substantial capacity* to:

- Appreciate the criminality (wrongfulness)

 Conform his or her conduct to the requirements of the law.