The Common Law Method: Induction & Deduction

New Case

1. Judge finds & analyzes relevant precedents to determine their holdings

Holding in new case

Holdings

3. Judge deduces the holding in the new case by applying that general principal to the facts.

Broader principle

2. Judge induces (synthesizes) a broader principle from those holdings
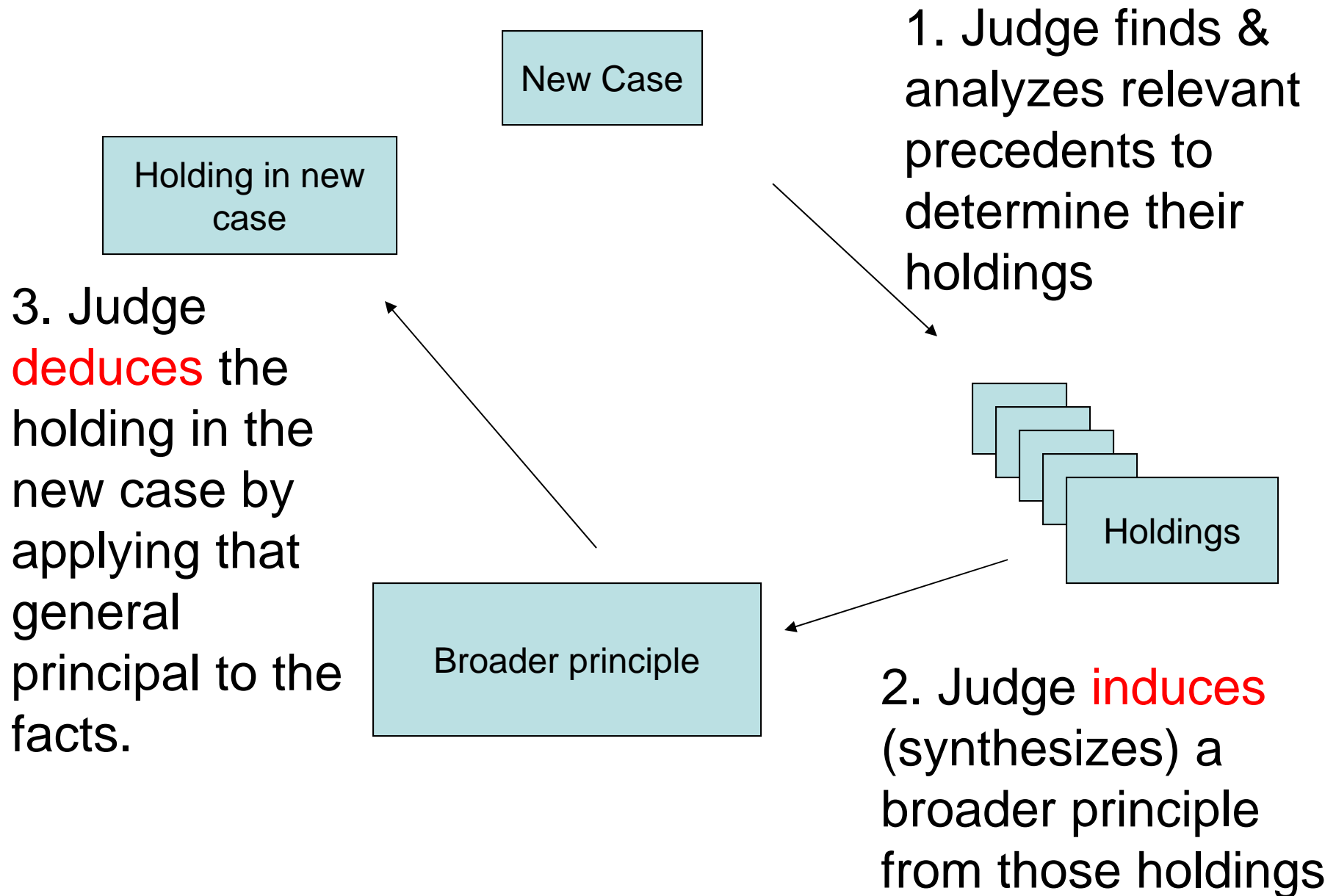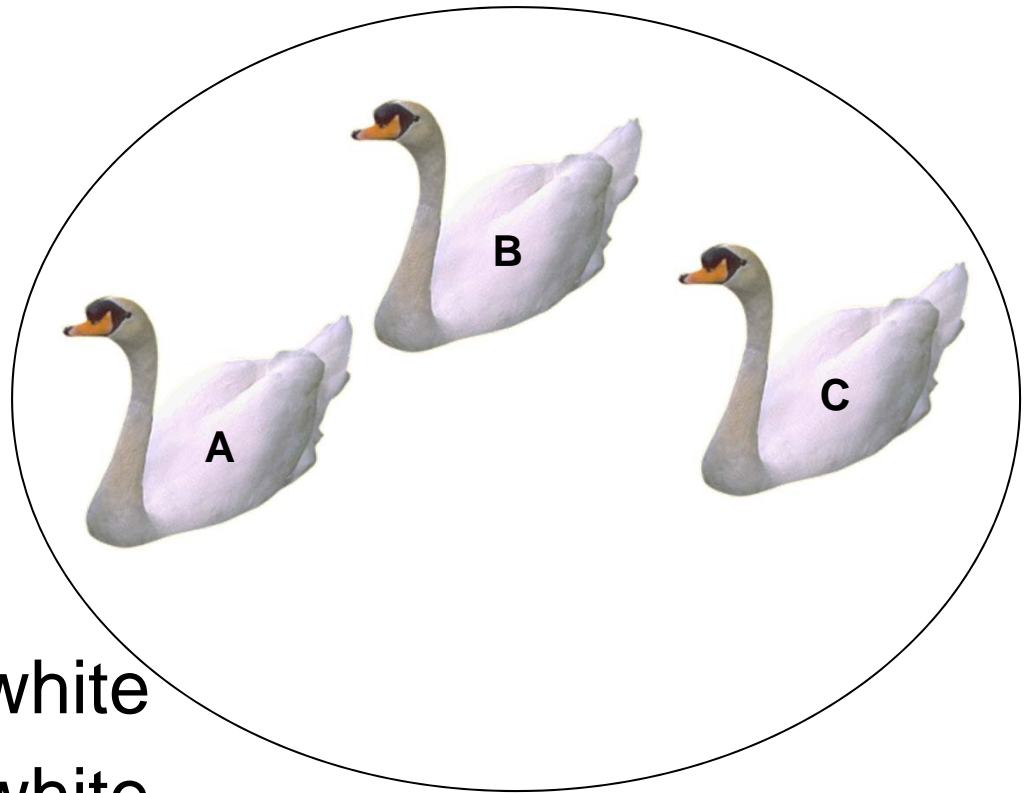
Induction = Reaching a Conclusion from Particulars to General
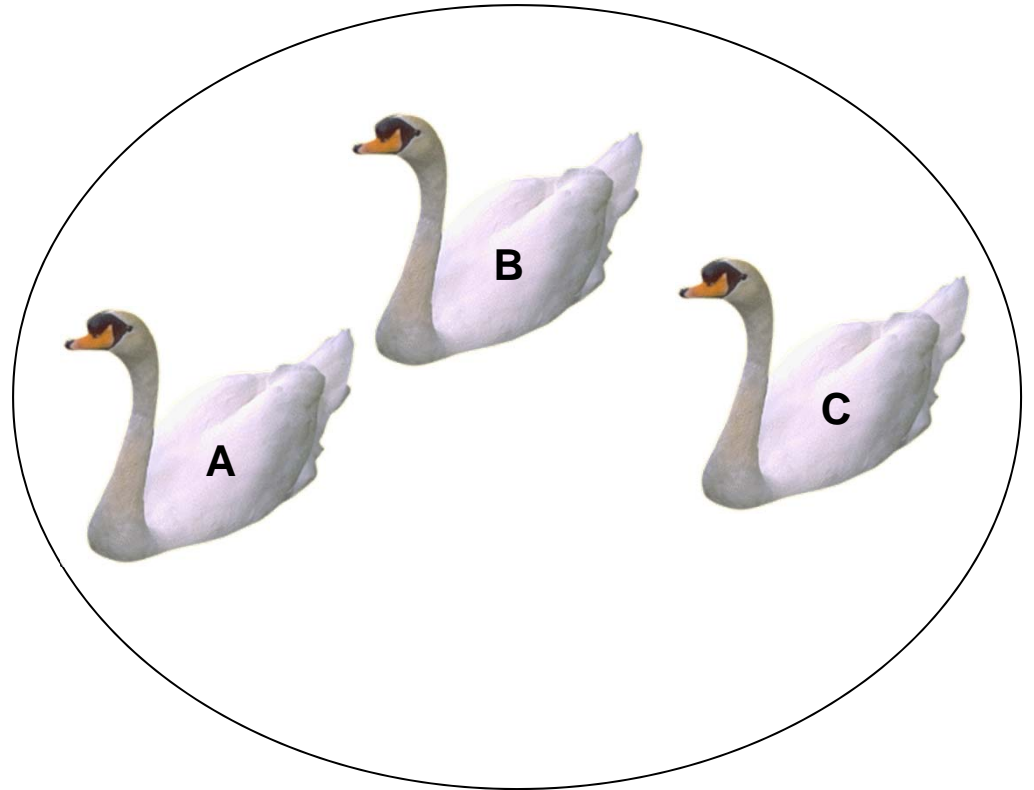

A is a swan and it is white

B is a swan and it is white

<u>C is a swan and it is white</u>

Conclusion: All swans are white

Using induction, the conclusion is not certain, just more likely than not.

Induction example (Burnham p.68)

Issue: Does owner recover from third party (3P)?

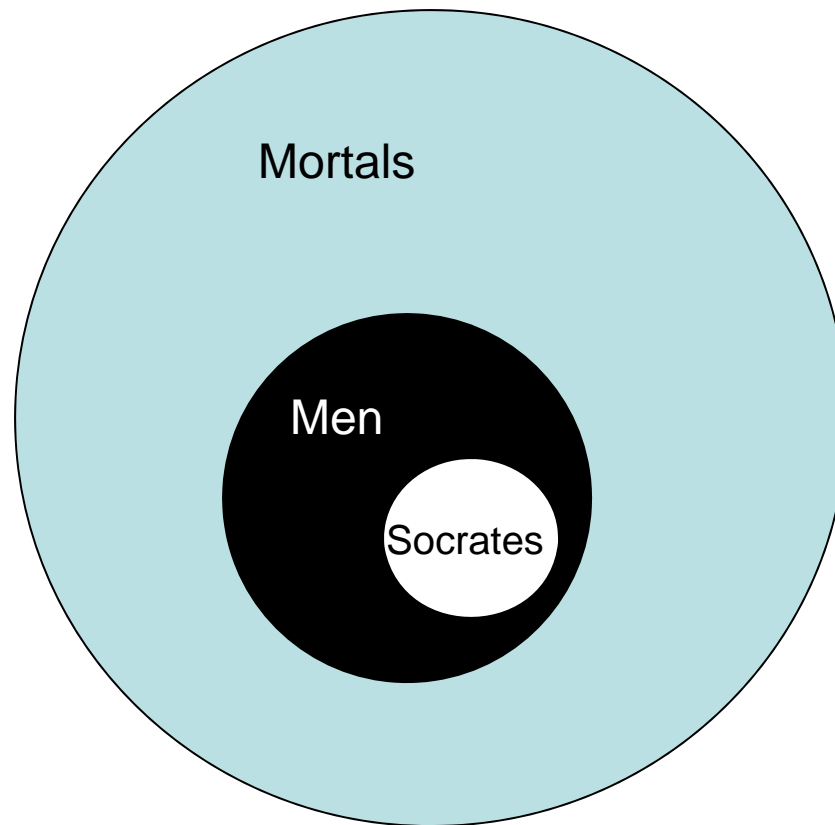|	Holding	How taken from owner?	Price paid by 3P	3P's knowledge of illegal taking
Case 1	Yes	Boat stolen	Fair market value	None
Case 2	No	Boat taken by fraudulent check	Fair market value	None
Case 3	Yes	Oil painting taken by fraudulent check	Below market value	Heard rumors

General Principle: Owner recovers from 3P if: (a) property was stolen; or (b) property was taken by fraud & 3P had reason to know it was taken illegally.

Deduction = Reaching a Conclusion from the General to the Particular

Major Premise: All men are mortal
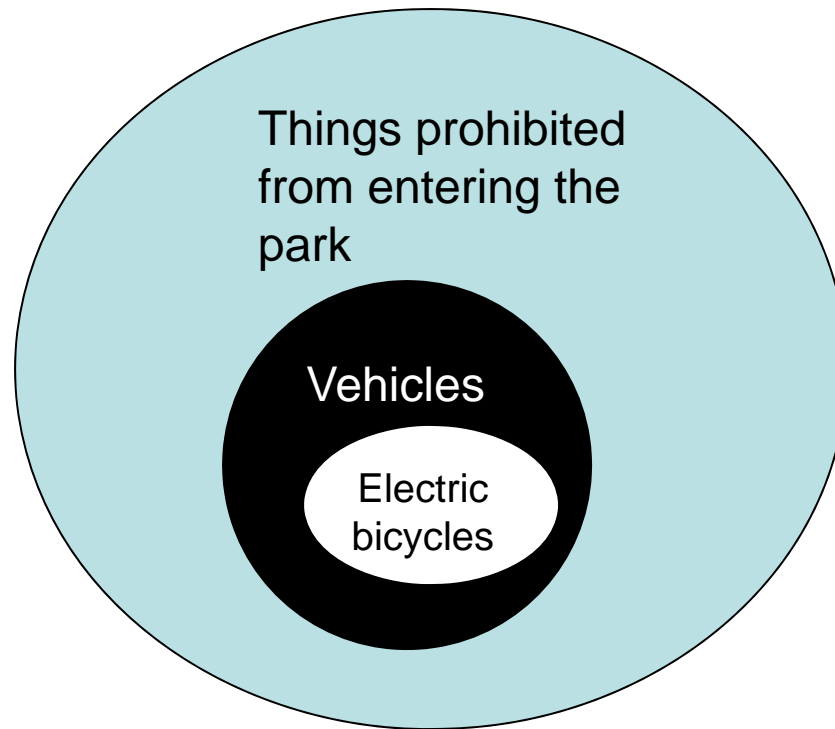Minor Premise: Socrates is a man
Conclusion: Socrates is mortal

Major Premise: "Vehicles" are prohibited from entering the park.
Minor Premise: The electric bicycle in this case is a "vehicle."
Conclusion: The electric bicycle is prohibited from entering the park.

Things prohibited from entering the park
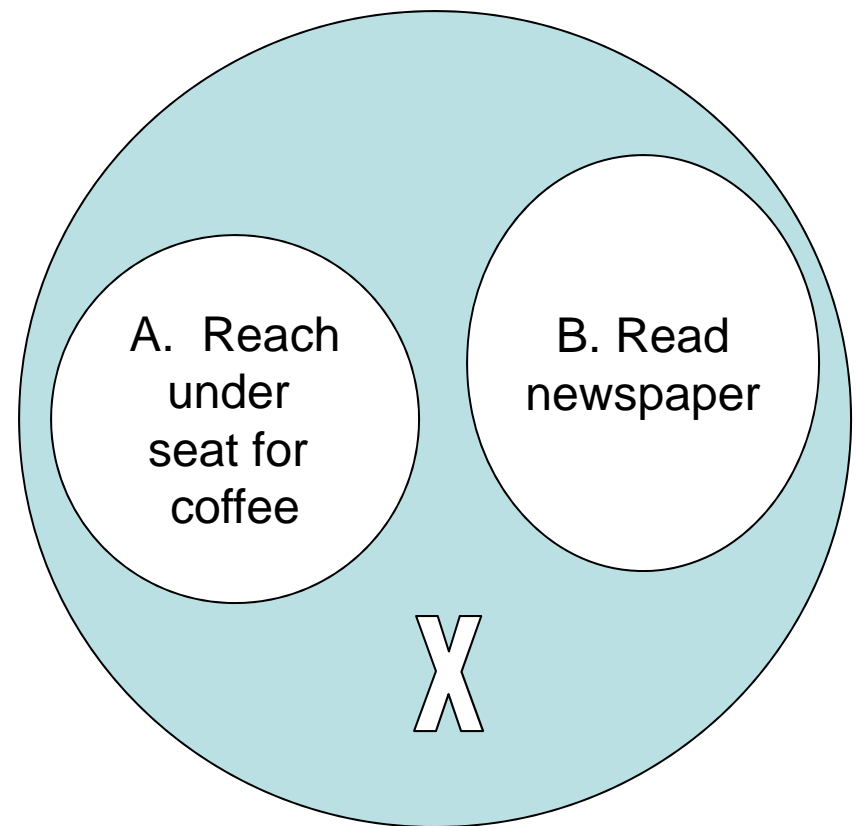
Vehicles

Electric bicycles

Exercise 1

What's the next number in this series:
1,2,3,5,8,13,21,?

Induction: Formulating the principle

Deduction: Applying that principle

Exercise 2a

A. Reach under seat for coffee

B. Read newspaper

X

Using the above two examples, induce a principle (X) for what activities constitute negligence while driving.

Exercise 2b

Apply that principle (X) to determine:

Is it negligent to talk on the cell phone (not wireless or speaker phone) while driving?

Induction/Deduction Exercise

Is Dana a Trespasser?

(see handout)

Issue: Is Dana a Trespasser?

	Factor:	Factor:	Factor:	Factor:	Holding in Trespass Issue:
Case A					
Case B					
Case C					
Dana					
General Principle					