This essay is divided into four parts. First, I examine two cases of casuistry that help highlight the casuistic method of John Mair’s moral reasoning. Second, I develop several insights about the distinctiveness of high casuistry. Third, in order to locate Mair, I contrast him with those writing *Summaries of Cases*, particularly, Francisco de Toledo, some eighty years later. Here I outline the historical development of casuistry, by explaining the reasons and changes that prompted it to move from being an inductive to a deductive science. Fourth, I return to look at several other instances of his casuistry, particularly his impact on international legal issues, and I conclude that if he is not the first modern casuist (who can really say?), then he is at least among the early modern ones.

1 **Introducing Mair’s High Casuistry**

James Farge remarks that on the eve of the Reformation the courses of the nominalist John Mair were among the most popular ones at Paris (1506–1518, 1521–22, 1526–31). Elsewhere, I have argued that Mair’s nominalism afforded him some footing in a world no longer comfortable with older systems. When his scholastic nominalism engaged new practical concerns, the result resembled what we today call modern casuistry.

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Three insights help us to understand the achievement of John Mair. First, Mair wanted to experiment with method. He asked, “Has not Amerigo Vespucci discovered lands unknown to Ptolemy, Pliny and other geographers up to the present? Why cannot the same happen in other spheres?” The new questions that Mair entertained prompted him to reexamine old ways of thinking. In order to do this he used the scholastic dialectic, engaged circumstances, invoked experience, established commonsensical insights, waged an opinion as being morally certain, and waited for the reader’s assent.

Second, as a result, the concept of authority, so significant in the scholastic method, was radically changed. Mair’s revisiting of older teachings with new perspectives required, to some degree, a rejection, albeit nuanced, of the sanctioned views of Gregory the Great, Huguccio, Thomas Aquinas, and even Augustine. As the world expanded, local cultures and practices demanded newer directives, and tradition, failing to provide sufficient insight, had less influence. In a world of competing authorities, Mair and his disciples offered their cases with no longer certain but only probable arguments.

Third, in this probable world, Mair employed the scholastic dialectic, but instead of using it to examine moral and immoral “objects” as the earlier scholastics did, he drew analogies through a comparison of situations, experiences, and cases.

Mair’s desire to explore previous teachings, his ability to contest earlier expressions of authority, and his study of cases through inductive logic place him at the forefront of the development of modern casuistry in the early 16th century. To appreciate his work let us examine two cases: maritime insurance and cambium bursae.

In 1237, Pope Gregory IX issued the decretal, Naviganti vel eunti ad nundinas. Of this decretal, John Noonan writes: “By any standard it is the most important single papal decree on the usury question with the exception of those containing the basic prohibition itself.” The issue at hand concerned the first of the three sentence decretal: “One lending a certain quantity of money to one sailing or going to a fair, in order to receive something beyond the capital for this,