The contrite heart was absent, or at least not prominent, in the discourse in Francia about law and penance prior to Charlemagne’s alliance with the episcopate. The compression of public interest and divine justice into the small space of the heart took place under the weight of imperial government. Perhaps paradoxically, increased imperial hegemony over peoples and territories was accompanied by deeper religious probes into the souls of those within the empire’s bounds, as will be discussed in the subsequent chapter. The present chapter surveys the chronology of the use of penance and confession as elements of religious jurisprudence and examines the larger context of popular piety—insofar as it can be perceived—in order to determine what sort of precedents for penitential orientation might have already been present before the programme of religious education developed during Charlemagne’s reign. Such enquiries require attention not only to clerical instruction but also to popular appropriation and elaboration of received doctrine, again, either before imperial intervention or in regions governed by bishops seemingly less well connected to the imperial court.

The absence of documentation is a well-known obstacle to analysis of popular piety in the early Middle Ages, and these pages attempt a somewhat oblique approach both to popular piety and to the question of instructional and disciplinary authority exercised by bishops of the late 8th and early 9th centuries, by focussing on episcopal accusations of heterodoxy. Those accusations reveal something about the scope and tenor of religious discourse beyond the technical biblical exegesis that dominates in the surviving evidence; they decry alternative views of the road to redemption. They also indicate that episcopal perspectives on the exercise of pastoral and juridical authority changed between the mid-8th and mid-9th century. To trace some of the changes, this chapter examines two episcopal legal actions that were conceived as protecting Christians from the dangers that unorthodox ideas might pose to their salvation. One case originated in the mid-8th century in “Germania” and was prosecuted by the archbishop of Mainz; the other is the venture of the bishops of Lyon in the mid-9th century to
obtain legislation to segregate Jews and Christians, discussed in part in the previous chapter. The similarities and differences in the two cases illuminate the changing juridical opportunities and techniques available to bishops as kingdoms became empire; they show too why pastoral management of popular piety was also crucial for the development of imperial “penitentialism.”

The patterns in juridical and pastoral change in the Carolingian era have been masked by a dominant historiographical account of the development of penance in the medieval West. Disproportionate attention has perhaps been given to the insular (and thus putatively monastic) origin of “private penance,” i.e., the individual undertaking of mortification for sins under the guidance of a personal confessor after a private confession, which has often been presented as distinct from the rituals of public penance known from late antiquity. As has been seen in the first chapter, in the Carolingian period, secret confession and public prosecution were not mutually exclusive, and public confession might be demanded for sins tallied in the penitential literature as susceptible to remedy by private purgations. Before debates over the secrecy or publicity surrounding confession and penance crystallized in the mid-9th century, however, jurists were engaged with problems related to the exercise of authority.

How penance became an important instrument in the exercise of episcopal and sacerdotal authority is an issue that has been perhaps unnecessarily complicated by modern attention to the insular formation and dissemination of “private” penitential practices (voluntary, secret, repeatable confession and penance for minor sins) in the Merovingian period by “Irish monks” (sometimes noted as “Irish and Anglo-Saxon

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