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The Criminal Jurisdiction of the Federal High Court under Section 251 of the Constitution of the Federal Republic of Nigeria: Has the Last Word Been Said?

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Abstract

The Jurisdiction of the Federal High Court has been a subject of so many debates and arguments by scholars over the years. Jurisdiction is created and conferred on a court by statute. Courts do not exercise jurisdiction as a matter of course. There is nothing like Common Law Jurisdiction. Further, courts cannot confer jurisdiction on itself. Courts are creatures of statutes and it is the statute that creates a particular court that will confer it with jurisdiction. They may be extended, not by the courts, but by the legislature, for it is part of interpretation functions of the courts to expound the jurisdiction of the court but not to expand it. In fact, in Nigeria today, all superior courts of record are established by the Constitution and their Jurisdiction clearly spelt out. Other courts are also established pursuant to a law. Hence, no court in Nigeria exercises jurisdiction without an authority from a law. This being so, why then is jurisdiction a subject of discordant and divergent interpretations. Firstly, interpretation of statutes is not always as easy as it seems. Perception varies and the true intendment of a Draftsman may not be easily ascertained. Secondly, our laws are fraught with varying degrees of drafting inelegance. This article is aimed at exploring the criminal jurisdiction of the Federal High Court as envisaged by the Draftsman under section 251 of the 1999 Constitution. Moreover, this article will answer the question whether the criminal jurisdiction of the Federal High Court is exclusive or concurrent. The methodology adopted in this article is a critical analysis of the provisions of the Constitution and other relevant statutes conferring jurisdiction together with case laws where necessary. The opinion of Scholars will also be alluded to and analyzed.

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Meaning and Implication of Jurisdiction Generally

Let us start by reiterating the legal point that jurisdiction is the spinal cord of a court of law. A court can only act legally and validly when it has jurisdiction over the person and subject matter brought before it. Where it lacks jurisdiction, it also lacks competence. If the court decides to close its eyes over the issue of jurisdiction, it may end up issuing futile and inexecutable orders. Thus, issue of jurisdiction is basic. In other words, any judgment however well written if given without jurisdiction is no judgment at all as such judgment creates no legal obligation nor does it confer any right on any of the parties to the suit.¹ Ogunbiyi JCA in *Nuru Ochala v FRN*² expressed the importance of jurisdiction thus:

Where a court of law is drained of the requisite jurisdiction to entertain any proceeding before it, its decision, no matter the magnitude of dexterity and artistry invested in it, will be trapped in the miasma of nullity, without any benefit inuring to the party with a favourable judgment.

Historical Antecedents of the Federal High Court

As already mentioned, Superior Courts of Record are created by the Constitution. The Federal High Court is a superior court of record by virtue of section 6, 1999 Constitution. However, it has not been so from inception. This court, now known and recognized as Federal High Court was hitherto known as Federal Revenue Court. It was a specialized court established by the Federal Government pursuant to the then Federal Revenue Court Decree.³

The jurisdiction of the Court as provided by section 7 of the Federal Revenue Court Act covered revenue of the Government of the federation, taxation of Companies and other bodies or persons subject to Federal taxation; customs and excise duties, banking, foreign exchange, currency or other fiscal measures; operation of the Companies Act; copyright, patents, admiralty etc. Section 8 of the Federal Revenue Court Act expressly vested the court with exclusive jurisdiction over the matters specified in section 7 above.

¹ See: *Barclays Bank v CBN* (1976) 6 SC 175; *Tukur v Governor of Gongola State* (1989) 4 NWLR (Pt. 117) 517; *Bakare v A. G. Federation* (1990) 5 NWLR (Pt. 152) 516; *State v Onagoruwa* (1992) 2 NWLR (Pt. 221) 33; *Matari v Dangaladima* (1993) 3 NWLR (Pt. 281) 266; *Ajayi v Military Administrator of Ondo State* (1997) 5 NWLR (Pt. 504) 237.

² (2013) LPELR-21386 (CA) p.12 par B-C.

³ No. 13 1973; now Federal High Court Act Cap F12, LFN 2004.

The 1979 Constitution renamed the Federal Revenue Court as the Federal High Court under section 230. The jurisdiction of the Federal High Court as it was restyled was basically same as under section 7 of the Federal Revenue Court Act 1973. In 1991, the then Federal Military Government promulgated Federal High Court (Amendment) Decree.⁴ The Decree expanded the jurisdiction of the Federal High Court and conferred exclusive jurisdiction to it for the first time. Further amendment was effected on the jurisdiction of the Federal High Court in 1993 by the promulgation of the Constitution (Suspension and Modification) Decree.⁵ The 1999 Constitution repealed the Constitution (Suspension and Modification) Decree.⁶

From the foregoing, it is clear that the history of the Federal High Court leaves much to be desired. The Military kept modifying its jurisdiction and finally handed over us the 1999 Constitution that appears to create more confusion as to the exact intendment of the Draftsman with respect to the place of the Federal High Court.

The Criminal Jurisdiction of the Federal High Court

As stated above, jurisdiction is conferred by statute. Hence, to determine the jurisdiction of the Federal High Court, we must have recourse to the Constitution. Section 251 (2) & (3) of the 1999 Constitution provides for the criminal jurisdiction of the Federal High Court. For clarity let me reproduce the provision verbatim. Section 251 (2) & (3) provides thus:

- (2) The Federal High Court shall have and exercise jurisdiction and powers in respect of treason, treasonable felony and allied offences.
- (3) The Federal High Court shall also have and exercise jurisdiction and powers in respect of criminal causes and matters in respect of which jurisdiction is conferred by subsection (1) of this section.

The above provisions are clear, specific and unambiguous. However, as simple and clear as the words appear to be, scholars are of divergent opinions as to the exact contours of the criminal jurisdiction of the Federal High Court. Put differently, is the jurisdiction of the Federal High Court exclusive

⁴ No. 60 of 1991.

⁵ No. 107 of 1993.

⁶ See s.1 and Schedule to the Constitution (certain Consequential Repeals) Decree No. 63 1999.

or not? More specifically, does the Federal High Court enjoy its criminal jurisdiction with the State High Court?

Bob Osamor⁷ is of the view that the jurisdiction of the Federal High Court is exclusive. Although he did not adumbrate much on it, still the following lines are worth mentioning:

Note that the criminal jurisdiction of the Federal High Court is exclusive only in relation to criminal causes or matters arising from or pertaining to matters in respect of which section 251(1) of the 1999 Constitution (as amended) confers exclusive jurisdiction on the court.... Note that the controversy whether a Federal High Court has exclusive jurisdiction in criminal causes or matters arising from or pertaining to matters contained in section 251(1) the 1999 Constitution (as amended) (same as section 7 of the Federal High Court Act 1973) has apparently been laid to rest by the combined effect of sections 251 and 272 of the 1999 Constitution (as amended). However see *Abass v Commissioner of Police*.⁸

Another renowned scholar, JA Agaba is of a different view. He insists that the criminal jurisdiction of the Federal High Court is not exclusive. With respect to section 251 (2) Constitution he argued as follows:

...that of course, explains the express mention of the Federal High Court to try treason, treasonable felony and allied offences under section 251 (2) of the Constitution. Even at that, it is further submitted that the Draftsman never intended that the jurisdiction should be exclusive to the Federal High Court. (emphasis mine).⁹

With respect, it is a misconception for a learned scholar to reason that the jurisdiction of the Federal High Court with respect to treason and treasonable felony is not exclusive. The provision of section 251(2) employs the

⁷ B Osamor, *Criminal Procedure Laws and Litigation Practices* (2nd edn, United Kingdom: Dee-Sage (Books+ Prints, 2012) p. 41-42.

⁸ *Ibid.*

⁹ JA Agaba, *Practical Approach to Criminal Litigation in Nigeria* (1st edn, Abuja: Panaf Press, 2011) p.185.

imperative word “shall’. What is more? We wonder the authority and basis of the learned scholar’s view that the Draftsman never intended the jurisdiction to be exclusive. The learned scholar can only attempt to construe the intendment of the Draftsman and not to discern the intention of their hearts. The author has not relied on any rule of construction of statutes in coming to an informed conclusion of the true intendment of the Draftsman. With respect to section 251(3) the learned author submitted:

As for subsection (3) of the Constitution, the provision in my respectful view, merely show permissiveness. In other words, the Draftsman was aware that there were other courts having jurisdiction to entertain all criminal matters including those listed in section 251 of the Constitution and unless allowance is made for the Federal High Court, it would be in no position to share the jurisdiction with those courts.¹⁰

The learned scholar proceeded to draft different ways the Draftsman could have drafted the provision if they really intended to confer exclusive criminal jurisdiction on the Federal High Court.¹¹ We did not deem it necessary to reproduce the various drafts offered by the learned author. With respect, that exercise embarked upon by the scholar was uncalled for. We are of the humble view that a scholar’s duty is to make sense of the statute he is construing just as judicial officers give meaning to statutes while interpreting them and not to take over the duty of the legislature.

For the avoidance of doubt, the cases of *Eze v FRN*¹² and *Mandara v AG Fed.*¹³ never said that the criminal jurisdiction of the Federal High Court is concurrent. The cases merely discussed the criminal jurisdiction of the Federal High Court. In fact, the court held in Eze’s case that the jurisdiction of the Federal High Court is limited. Bello JSC (as he then was) in *Mandara v AG Fed*¹⁴ held as follows:

As regards the jurisdiction of the Federal High Court in criminal causes and matters, it may be observed that the Constitution did not expressly confer on that court jurisdiction in respect of criminal cases other than in section 230 of the

¹⁰ *Ibid*, p.185-186.

¹¹ *Ibid*, p.186.

¹² (1987) NWLR (Pt. 51) 506.

¹³ (1984) 4 SC 8 or (1984) All NLR 219.

¹⁴ *Supra*.

Constitution which enabled the National Assembly to prescribe such jurisdiction (but the defunct National Assembly did not do so) and which also vested in the Federal High Court the criminal jurisdiction of the former Federal Revenue court under the Federal Revenue court Act, 1973.
(emphasis mine).

His lordship was clear on the point that the then 1979 Constitution did not expressly confer jurisdiction on the Federal High Court. In construing the provisions of section 230 of the 1979 Constitution, the court noted that the National Assembly is empowered to prescribe jurisdiction for the Federal High Court. This is not the position today as we find in section 251 of the 1999 Constitution. The jurisdiction of the Federal High Court is now clearly stipulated. Moreover, these cases were decided prior to 1991 when the Federal High Court was given exclusive jurisdiction for the first time.¹⁵ Consequently, one cannot rely on these cases to posit that the criminal jurisdiction of the Federal High Court is not exclusive.

The Criminal Jurisdiction of the Federal High Court: Exclusive or Concurrent?

To begin with, the writer is of the firm view that the criminal jurisdiction of the Federal High Court is exclusive. The preceding pages of this article have set out the facts, judicial pronouncements and scholars' views on this issue. Our only intent here is to make a fair analysis of the facts before us.

Extinct Unlimited Status

Firstly, we are not comfortable with the whole fuss about the 'unlimited' jurisdiction of the State High Court. Better yet, one can refer to it as a court of 'general' jurisdiction. Let us for the avoidance of doubt reproduce the provision of section 272 of the 1999 Constitution on the jurisdiction of the State High Court. It read thus:

(1) Subject to the provisions of section 251 and other provisions of this Constitution, the High Court of a State shall have jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim is in issue or to hear and determine any criminal proceedings involving or

¹⁵ See Federal High Court (amendment) Decree. No 60 1991.

relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person.

We cannot fathom why it is difficult for most scholars to accept the fact that the State High Court no longer has unlimited jurisdiction. It is undisputable that under the 1979 Constitution the State High Court had unlimited jurisdiction, but that is no longer the case today. Be that as it may, the question we must answer is this: why did the Draftsman remove that word 'unlimited' from the State High Court when it conferred exclusive jurisdiction on the Federal High Court? Someone may say that it was to avoid conflict in respect of the civil jurisdiction of the Federal High Court that is exclusive. Indeed, the civil jurisdiction of the Federal High Court is expressly exclusive. Now, assuming without conceding that the criminal jurisdiction is not exclusive, why did the Draftsman remove the word 'unlimited' completely from section 272 of the Constitution?

Incorporation by Reference

The contention that the absence of the word 'exclusive' in subsection 2 and 3 of section 251 makes the jurisdiction concurrent is baseless. Subsection 3 of section 251 makes what is called incorporation by reference. The Draftsman instead of listing the matters stated in subsection 1 incorporated those matters by referring to them in subsection 3. The matters in subsection 1 are exclusive to the Federal High Court with respect to its civil jurisdiction. By parity of reasoning, the incorporated matters with respect to the criminal jurisdiction of the Federal High Court are also exclusive.

A learned scholar has also argued that the Draftsman is never known to lack words to put his intention through¹⁶ and hence subsection 3 ought to have expressed the jurisdiction as being exclusive if they so intended. Sound reasoning indeed. However, it appears the Draftsman did not do so because it may amount to tautology. Having conferred exclusivity in the opening words of the section and having incorporated the subsection, it appears unnecessary to state what has been incorporated already. Why must we want an express exclusion with respect to criminal causes? Most scholars never expected the Draftsman to list the matters it had already listed in subsection 1, dealing with its civil jurisdiction. The incorporation of the matters in subsection 3 is enough.

¹⁶ JA Agaba, *Practical Approach to Criminal Litigation in Nigeria* (1st edn, Abuja: Panaf Press, 2011) p.186.

The court of Appeal in the recent case of *Rotimi Wilbat Oludeko v FRN*¹⁷ appears to agree with the view that the criminal jurisdiction of the Federal High Court is exclusive as its civil jurisdiction. The court held thus:

...in other words, and simply put, the Federal High Court does not only have exclusive civil jurisdiction over items (a) to (r) of Section 251(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) but also has criminal jurisdiction with respect thereto. In which case, any offence committed in connection with the aforesaid items shall upon arraignment be tried by the Federal High Court.

Furthermore, the Draftsman could not have intended to create a conflict between the Federal High Court and State High Court in a section conferring jurisdiction on the Federal High Court. To appreciate this point, let us recall that the 1979 Constitution used ‘unlimited’ only with respect to the civil jurisdiction of the State High Court. Can one say that the criminal jurisdiction of the State High Court was not ‘unlimited’ too?

To appreciate the fact that the matters listed under section 251 of the Constitution are intended to be exclusive, let us compare the provisions of section 251 (1) (m) vis-a-vis section 26(1) National Drug Law Enforcement Agency Act.¹⁸ Section 26(1) National Drug Law Enforcement Agency Act conferred exclusive jurisdiction on the Federal High Court with respect to drugs like cocaine etc. For the avoidance of doubt, section 26(1) National Drug Law Enforcement Agency Act provides thus: ‘The Federal High Court *shall have exclusive jurisdiction* to try offenders under this Act’ (italics ours for emphasis).

Likewise, section 251(1) (m) of the Constitution conferred jurisdiction on the Federal High Court on ‘drugs and poison’. There is no doubt that the reason why the National Drug Law Enforcement Agency Act conferred exclusive jurisdiction on the Federal High Court with respect to drug offences provided for by the National Drug Law Enforcement Agency Act was because section 251 (1) (m) of the Constitution had already conferred jurisdiction on the Federal High Court with respect to the same matters. This we say because the marginal note of section 26(1) National Drug Law Enforcement Agency Act

¹⁷ (2014) LPELR-22632 CA.

¹⁸ Cap N Laws of the Federation of Nigeria, 2004.

states that the section was included into the Act in 1999. Recall that it was in the same 1999 that the Constitution stipulated the criminal jurisdiction of the Federal High Court as arising from its civil jurisdiction which includes drugs and poison. It follows then that the Draftsman clearly intended that the jurisdiction of the Federal High Court in section 251 of the Constitution will be exclusive, otherwise, it could not have conferred exclusive jurisdiction on the same court in another Act the same year on a similar matter mentioned in section 251 of the Constitution.

On the relationship between the Constitution and the National Drug Law Enforcement Agency Act with respect to drug offences, the Supreme Court in the case of *Nuru Ochala v FRN*¹⁹ held as follows:

By virtue of the provision of Section 251 (3) thereof: The Federal High Court shall also have and exercise jurisdiction and power in respect of criminal causes and matters in respect of which jurisdiction is conferred by subsection (1) of the section," see *Abbas v C.O.P* (1998) 12 NWLR (Pt.577) 308, Interestingly, the Supreme Court has given its imprimatur to the fact that Indian hemp is a drug within the meaning of drugs in section 11 of the National Drug Law Enforcement Agency Act in the recent cases of *Okewu v FRN* (2012) 9 NWLR (Pt.1305) 327 and *Chukwuma vs. FRN* (supra). *It stems from these highlights that the Constitution, as amended, has made clear and copious provisions in allotting jurisdiction to the Federal High Court over criminal causes and matters touching on Indian hemp. Indubitably, the Federal High Court traces the statutory paternity of its jurisdiction over Indian hemp offences, allocated to it by section 26(1) of the National Drug Law Enforcement Agency Act, to the Constitution, as amended.*²⁰

The learned Justices of the Supreme Court in the above case affirmed the exclusive jurisdiction of the Federal High Court with respect to drugs. Again, the court traced the 'statutory paternity', that is, the origin of that jurisdiction to the Constitution. It follows then that there is a nexus between the provisions of section 251 of the Constitution and section 26 of the National

¹⁹ *Supra*

²⁰ *Emphasis mine*

Drug Law Enforcement Agency Act that deals with drugs. What is more? Assuming the Constitution intended that the matters in section 251 of the Constitution should be concurrent to the State High Court, the National Drug Law Enforcement Agency Act would not have conferred exclusive jurisdiction on the Federal High Court with respect to the same matters as such will amount to inconsistency with the provisions of the Constitution. The consequences of such inconsistency are clearly spelt out in section 1 (1) and (3) of the Constitution. The provisions of any other law that is inconsistent with the Constitution remain void to the extent of the inconsistency. That is, the provisions of the National Drug Law Enforcement Agency Act ought to be rendered void by the court if really the criminal jurisdiction of the Federal High Court is concurrent with the State High Court.

Be that as it may, there is no inconsistency because the intention of the Draftsman is to confer exclusive jurisdiction on the Federal High Court. The case of *Ochala* cited above did not query the jurisdiction of the Federal High Court with respect to drug offences. There is a plethora of authorities on the point that the Federal High Court has exclusive jurisdiction on drug-related offences.²¹ Another area where the Federal High Court has exclusive jurisdiction is on extradition matters.²²

Generality of Jurisdiction of State High Court

The jurisdiction of the State High Court as reproduced above is undoubtedly a general provision and has remained so from inception. This I say because of the language used. Words like ‘legal right’, ‘power’, ‘duty’, ‘liability’, etc., are general in nature because anything can be construed under them. With respect to its criminal jurisdiction, the provision of section 272 *inter alia* reads ‘...any criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability’. Hence, any offence can come under this provision. This means that the criminal jurisdiction of the State High Court is devoid of specific types of offences. Understandably, it is impossible for the Draftsman to list all types of offences when conferring jurisdiction on the State High Court. This explains why there is the view that all criminal

²¹ See *Okewu v FRN* (2012) 9 NWLR (Pt.1305) 327, *Chukwuma v FRN* (2011) 13 NWLR (Pt.1264) 391, *Ossai v FRN* (2012) LPELR-19669.

²² See *Orhiunu v FRN* (2005) 1 NWLR (Pt 906) p.51.

matters can be tried by the State High Court. In *Hakido Kpema v The State*²³, his Lordship Obaseki JSC reasoned along this line when he held as follows:

The criminal jurisdiction a High Court of a State has is to "hear and determine any criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person". See section 236(1) Constitution of the Federal Republic of Nigeria 1979.

The fact that the criminal jurisdiction of the State High Court is general does not mean that it can try any criminal matter or any person. Admittedly, section 272 of the Constitution used the words 'any criminal proceedings' and 'any person'. Still, the words are not absolute as limitations may be placed on it by other laws. It is also a universal principle of interpretation of statutes that special provisions override general provisions.²⁴ We must also remember that some persons and offences cannot be tried in a State High Court but in a specialized court. For example: children below the age of 17 years can only be tried in a Juvenile court.²⁵ Persons subject to service law who commit offences can only be tried in a court martial.²⁶

Specialty of Jurisdiction of Federal High Court

The above generality of the jurisdiction of State High Court is not and cannot be the case with the Federal High Court. From the history of the Federal High Court traced above, the court is a special court created by the Federal Government to dispose of specific matters. Little wonder, the provision dealing with its jurisdiction took the pain to list out all the matters it is to have jurisdiction in. To differentiate the exclusivity of its jurisdiction in criminal matters from civil matters in respect of the same set of matters is a grave misconception. If it is true that the criminal jurisdiction of the Federal High Court is not exclusive, why is it a court of special criminal jurisdiction? Interestingly, the learned authors cited in this work all classified the Federal High Court as a court of special criminal jurisdiction.²⁷ If the contention that its jurisdiction is concurrent with the State High Court is to hold, it will then

²³ (1986) NWLR (Pt. 17) 396.

²⁴ This is expressed in the Latin maxim "*generalia specialibus non derogate*".

²⁵ See Children and Young Person's Law of various states.

²⁶ See s. 130 Armed Forces Act, Cap A20 Laws of the Federation of Nigeria 2004.

²⁷ JA Agaba, *op cit*, p.184, B Osamor, *op cit*, p.40.

necessarily follow that the State High Court is also a court of special criminal jurisdiction. This, of course, cannot by any stretch of imagination be the case.

It is, therefore, our considered respectful view that what makes the Federal High Court a special court is the limits and exclusivity placed on it by section 251 (2) & (3) 1999 Constitution. Admittedly, there appears to be drafting inelegance in the provision of section 251. Still, this is not enough to divest the Federal High Court of its exclusive criminal jurisdiction. Generally, Nigerian statutes are fraught with drafting inelegance.

Subjection of State High Court to Federal High Court

The opening words of section 272 as seen above are ‘Subject to the provisions of section 251 and other provisions of this Constitution....’ This simply means that the provision of section 272 operates subject to section 251.

The phrase "subject to" in the section is significant. The expression is often used in statutes to introduce a condition, a proviso, a restriction and indeed a limitation.²⁸ ‘Subject to’ conveys the thought of ‘under’, ‘in obedience to’. The effect is that the expression evinces an intention to subordinate the provisions of the subject to the section referred to which is intended not to be affected by the provisions of the latter.²⁹ In other words, where the expression is used in the commencement of a statute, it implies that what the subsection is subject to shall govern, control and prevail over what follows in that section or subsection of the enactment.³⁰ Differently expressed, section 251 overrides and supersedes section 272. That is to say, section 272 must bow to section 251. Furthermore, in the event of any conflict between the two provisions, the conflict must be resolved in favour of the Federal High Court as it affects its jurisdiction under section 251. How then can the Draftsman intend the two courts to enjoy concurrent criminal jurisdiction where one is subject to the other?

As if the above were not enough, the Draftsman in section 251 (1) provides the opening words ‘Notwithstanding anything to the contrary contained in this Constitution....’ This means that it is the intendment of the Draftsman to exclude and override any other existing court in respect of matters specified

²⁸ See *FRN v James Onanefe Ibori & ors* (2014) LPELR-23214 (CA), *Oke v Oke* (1974) 1 All NLR (pt.1) 5.

²⁹ See *Aqua Ltd v Ondo State Sports Council* (1988) 4 NWLR (pt. 91) 622.

³⁰ See *Labiya v Anretiola* (1992) 8 NWLR (Pt.258) 139 at 163 - 164. See also *Tukur v Govt of Gongola State* (1989) 4 NWLR (Pt.117) 517 at 529.

in section 251. Some scholars are of the view that this opening words and the exclusive jurisdiction of the Federal High Court is only with respect to civil matters.

With respect, this is not correct. It is a trite law that in the interpretation of statutes the entire provisions are read as a whole and carefully³¹. Where a section has subsections, the entire subsections must be read as one.³² 'Put differently, therefore, in the construction of a statute, no section is meant to stand on its own nor is it permissible to do a piecemeal construction of the statute'.³³ To insist that the jurisdiction of the Federal High Court is exclusive only on civil matters would amount to reading the provisions of section 251 in isolation. The opening words of section 251 (1) bind the whole section and specifically subsection 3. Assuming the Draftsman intended the criminal jurisdiction of the Federal High Court not to be exclusive, he would have enacted a completely different section for its criminal jurisdiction. We cannot purport to incorporate matters in section 251 (1) into section 251 (3) and decide not to read in exclusivity found in the same subsection being incorporated.

Conclusion

We have considered the criminal jurisdiction of the Federal High Court. We have established that the criminal jurisdiction of the Federal High Court is exclusive the same way its civil jurisdiction is exclusive. We look forward to a case where a person who committed an offence that fall within the purview of section 251 of the Constitution will be charged before the State High Court and the issue of concurrent jurisdiction challenged. That will give the Apex court or indeed any court opportunity to pronounce on the exclusivity of the jurisdiction of the Federal High Court. We however doubt whether any reasonable prosecutor will actually do so. We pray our Draftsmen to completely overhaul the provisions of section 251 and clearly stipulate the jurisdiction of the Federal High Court. This will obviate the view scholars have of the Federal High Court as a rival court to the State High Court.

³¹ *Ojokolobo v Alamu* [1987] NWLR (Pt.61) 377, *Matari v Dangaladima* [1993] 4 NWLR (Pt.285) 72, *Awolowo v Shagari* [1979] 6-9 S.C. 37

³² *Ibid.*

³³ CA Obiozor, *Nigerian Arbitration Jurisprudence, op cit*, p. 136.