

# Chief Justice summoned

**'Painful decision'**

**'Forced the move'**

By PIUS NYAMORA, GIDEON MULAKI and GICHURU NJIHA

**The Chief Justice, Mr Alfred Simpson, will testify before the Njonjo Judicial Commission of Inquiry.**

The commission chairman, Mr Justice G. M. Miller, gave the order to summon the Chief Justice after a counsel for Mr Charles Njonjo, Mr W.S. Deverell, finished cross-examining a lawyer in connection with the Andrew Mungai Muthemba treason trial of 1981.

Mr Justice Simpson, then a High Court Judge

was the trial judge at the Muthemba trial in 1981. He acquitted Mr Muthemba and his co-accused, Mr Dickson Kamau Muiruri.

Mr Justice Miller gave the summons order after Mr Deverell asked the lawyer who represented Mr Muiruri, Mr H.S. Makhecha, whether any useful purpose would have been served by playing during the treason trial a tape recording of a conversation between Mr Muthemba and a Captain Gitcha when a transcript of evidence had been accepted as accurate.

But before Mr Makhecha could answer, Mr Justice Miller ordered him to stop, and gave Mr Deverell one minute to consider whether or not to put the question. And Mr Deverell replied: "I do not need a minute. I wish to put the question". The chairman then asked him to go ahead.

Replying to the question, Mr

Makhecha said that where the transcript was agreed upon by all the parties as being accurate, then the tape was not usually played in court.

At this stage, Mr Justice Miller said: "It is with a very painful sense of duty and pressing from what Mr Deverell has just asked, we give notice now that you advocates appearing the commission take note that the judge who judged the case, I think it was Justice Simpson, who was then a judge and now the Chief Justice, is summoned to the proceedings as soon as possible."

"You take note of that, Mr Muthemba. We summon the Chief Justice and let him come and explain how and why he did or did not."

The tape in question was recorded by a former superintendent of police, in the special branch, Mr Moses Mimanoo, and was played before the commission recently. At that time it was found to be inaudible and disjointed.

Last week, Mr Muthemba applied for summons to be served to the former Deputy Public Prosecutor, Mr Sharam Rao, to



Mr Justice Simpson: To testify

appear before the commission.

Mr Rao conducted the prosecution during the trial of Mr Muthemba and Mr Muiruri. Immediately after making the order yesterday, Mr Justice Miller adjourned the proceedings 10 minutes early, saying: "At the moment I do not feel that I can usefully continue with the proceedings today."

The commission is headed by



Mr Justice Miller: "I give you one minute..."



Mr Deverell: "I don't need a minute".

## Eight deny killing seven people

**SENDA wa KWAYERA** people appeared in the court yesterday charged with shooting dead seven people in Mombasa last year.

The eight, allegedly killed six people and shot dead seven people in Mombasa. They were charged with the Mombasa District on January 16, 1983.

They pleaded not guilty to the charges. The court was told that they attacked with over 20 others, attacked the Hare Hostia Village Mombasa, shot down the villagers who were the accused.

The case is being heard by Mr Justice Fida Hussein Abdullah, A

## Jahazi plea rejected

**By ANDREW KURIA**  
The High Court yesterday dismissed an application by a petitioner to introduce evidence to allow admission of voters who were to give evidence in his case.

Chief Justice Miller, after the election, the 21 samples which were introduced in other parts of the country.

Mr Nagpal in his submission stated that the court was determining validity of the September 20 last year's elections.

Nairobi advocate, Mr Othman Opiyo, is appearing for the defence, while the State is represented by Mr Bernard Mbatia.

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**KANTILAL MOI AVENUE**

## Moi for Murang'a today

President Moi will officiate at a fund raising meeting in aid of Murang'a High School in Murang'a District today.

The function begins at 1.30 p.m. according to a statement from the Office of the President.

The Central PC, Mr David Musila and the MP for Kirumu, Mr Francis Thuo have appealed to Kenyans to turn up in large numbers and contribute generously. (KENA)