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# Chief Justice summoned

**'Painful decision'**

**'Forced the move'**

By PIUS NYAMORA, GIDEON MULANI and GICHURU NAIHIA

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

The commission chairman, Mr Justice 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 Gichuwa 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 great sorrow 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 this 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 Mimanu, 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 Sharan 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

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



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

## Eight deny killing seven people

**RENDWA 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 others in Mombasa. Mr Justice Miller presided over the trial, and their daughters and relatives, with valuable property

crossed the border into Somalia. Mr Osman Abney, Mr Eric Hanyu, Mr Ismael Ahmed, Mr Abdi Wahid, Mr Abbey Sheikh, Mr David Sheikh Mohamed, Mr Abdi Ismail, and Mr Ibrahim Moudin Hassan were jointly charged with offences not in court.

Nairobi advocate, Mr Oetiro-Op'yo, is appearing for the defence, while the State is represented by Mr Bernard Mbatia.

The accused are said to have shot dead Mr Isahk Hassan, Mr Adam Edeh, Mr Billow Duraja, Mr Hassan Mammadou, Mrs Khadija Billow, Mr Ali Jilani and Mr Bshar Billow, during the attack.

Over 30 other villagers were seriously injured.

The accused appeared in court in tattered clothes and unkempt hair. They made constant gestures and shook their heads regularly.

When the hearing started yesterday morning, Mr Justice Abdullah appointed three assessors. They are Mr Yunus Ali, the Secretary-General of Posts and Telecommunications Workers Union, Mr Osman Mohamed and Mr John Boru Soso.

The hearing continues today.

## Jahazi plea rejected

**By ANDREW KURIA**  
The High Court yesterday dismissed an application by a petitioner to introduce evidence to allow tabling of votes which were to give evidence in his favour.

Chief Justice Miller, in the case for petitioner was asked to process of Mr. This he said would cause prejudice on the part of the court hearing the case.

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

Mr Nagpal stated that introduction of later bribes should not be shut out," stated Mr Nowogoj.

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

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