

FUSION MOVEMENT: JUDICATURE COMMISSION (1867)

- ❖ Judicature Commission recommended:
 - 1) Removal of Binary System;
 - 2) Merger of all Civil Courts;
 - 3) Recommended New Procedural Rules
- ❖ Equity's "Substantive Justice Approach" defeated Common Laws "Formalistic Approach to Justice"
- ❖ Judicature Act 1873 was based on Equity's "Substantive Approach to Justice"
- ❖ This Approach led to "Zero-Error Regime" towards litigation, which led to mushrooming of "Satellite Litigation"
- ❖ Multiple Appeals/Revisions – Increase in Cost/ Delay/ Complexity
- ❖ Increase in Adversarialism
- ❖ RSC Judicature Act 1873 could not deliver as it aimed at securing "Substantive Justice" in each and every case – An impossible Result
- ❖ "Substantive Justice Approach in Each and Every Case" led to Satellite Litigation, Chocking of the System, Delay, Complexity and Cost
- ❖ RSC 1873 followed a "Laissez Faire Approach" to Case-Progression: Leave Things to their own without Interference
- ❖ "Substantive Justice Theory" does not look beyond a particular case in hand – Impact on other cases while deciding subject case is irrelevant – No concept of "Procedural Economy" with reference to entire Court Docket