Civil Liability of Judges in Northern Ireland.

1. Under what circumstances may a judge be liable (in damages) for:
   a. Errors contained in a judgment,

      A judge is not liable for errors contained in a judgment. This would be regarded as an erroneous exercise of jurisdiction and not an excess of jurisdiction. This distinction is important because a judge of the superior courts is exempt from all civil liability for all acts done by him in the course of his judicial functions and a judge of an inferior court is personally liable for acts done without jurisdiction. Therefore a judge of a superior or inferior court would not be liable.

   b. Defamatory utterances made in court, or defamatory statements contained in a judgment,

      No action lies against a judge for a defamatory statement whether written or spoken in the ordinary course of any proceedings before a court recognised by law.

   c. (undue) delays,

      There is no remedy at law for damage caused by delay on the part of a judge. If a judge dies or becomes ill during a trial there is a statutory power in England and Wales for the Lord Chancellor to pay a limited sum for additional costs incurred as a result. This does not apply to Northern Ireland.

   d. poor functioning of the court administration,

      The administration is an integral part of the judicial system and no remedy is available in damages for poor administration.

   e. other behaviour in the performance of his office,

      A judge of an inferior court will be liable in damages for acting outside his jurisdiction.

2. Does liability in these cases lie with the judge in person or with the State? Could the judge, if held liable, recover the sum for which he is liable from the government (or vice versa)?

   Where a magistrate acts without jurisdiction in a civil case, in so far as the action of the magistrate is considered by the Lord Chancellor to be reasonable he will pay any damages from public funds.
   In a criminal case if a magistrate has acted without jurisdiction the Lord Chancellor will pay any damages from public funds unless the magistrate is proved to have acted in bad faith.

3. If liability lies with the judge in person, is liability insurance usual, compulsory, or provided by the government?

   No. As the circumstances are so limited in which a magistrate could be found liable it would not be usual to have liability insurance.
4. *In your opinion do the rules governing the liability of judges in any way jeopardize their independence? Are these rules otherwise satisfactory?*

The rules are intended to protect the independence of the judiciary. It is suggested that it would be weakened, as would the administration of justice if judges were open to actions for error, malice or incompetence by disappointed litigants. The better remedy is by way of an appeal.

5. *Are there any plans for reform?*

No plans for reform are contemplated to the writer’s knowledge.

II

6. *What subjects would you like to discuss in detail*

Should damages be payable where poor administration including delay in delivering judgment has caused loss to a party to litigation?

7. *What changes in the law do you suggest?*

That litigants who are proved to have suffered loss through maladministration should be allowed to recover damages from the department of government responsible for the administration of the courts.

III

8. *Proposed subject for next year*

The right to privacy.

*What is your opinion on the present experiment of including cases for discussion, with a shorter questionnaire?*

I welcome it.