

British Case Turns

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LONDON, Jan. 10—A controversy over whether the dead can be libeled will move from the Letters Column of the London Times into British courts as a result of an action brought this week by a Czech pilot who lives in California.

The pilot, Capt. Edward Prchal, is the sole survivor of a 1943 air crash off Gibraltar in which the Polish wartime leader Gen. Wladyslaw Sikorski was killed. Prchal is mentioned as "the Czech pilot" in a drama by

German author Rolf Hochhuth, "The Soldiers," now playing in London's West End. The play alleges that Winston Churchill was implicated in the death of Sikorski.

Prchal has begun libel action against Hochhuth, the producers of the play, the manager of the theater and the firm publishing the text of the drama. The suit raises two questions of broad interest:

1. Was Churchill in fact implicated in the death of Gen. Sikorski, the outspokenly anti-Soviet premier of the Polish government in

exile? The presumed motive would have been to improve wartime relations with Moscow.

2. Can the dead be libeled, and if so can relatives seek damages?

On the first point, Hochhuth maintains that the evidence to support his contention is locked in the vaults of a Swiss bank and cannot be produced without endangering his informant, who is purportedly a former British secret agent.

This excuse was dismissed as "despicable" by the Times, which said in an editorial that Hochhuth "re-

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fuses to support the allegation with anything more than the claimed existence

Hochhuth's defenders include critic Kenneth Tynan, co-presenter of the play, who argued recently that during wartime extreme steps are sanctioned and that it is not dishonorable to impute the General's death to Churchill. In Tynan's words:

"Is Churchill vilified by being involved in such an accusation? . . . a sadly myopic commentary. In (the plays) final tableau, the Polish hero of an unnamed document from an unnamed witness in an unnamed bank."

In an indignant letter Friday to the Times, Winston S. Churchill, grandson of the prime Minister, accused the dramatist of resurrecting without proof "the lies put out by Dr. Goebbels's propaganda ministry within hours of the Sikorski crash."

Six surviving members of Churchill's "secret circle," in another letter to the Times, described the allegation as an "absurd fabrication." The signers, all former private secretaries to Churchill or the war cabinet, went on to say:

"Once towards the end of the war one of our number

commented to him that British agents had never succeeded in assassinating Hitler. Sir Winston replied, 'Political assassination is something I would never countenance.'"

sees Sikorski merely as a dead leader and patriot. Churchill, with his wider vision, sees him as something nobler—a sacrifice made for the good of all nations.

"At this closing moment, Churchill becomes an authentically tragic figure. His grief is greater than that of the Polish guerrilla hero, because the truth he perceives is more profound."

Yet whether true or not,

Be Libeled

can the dead be libeled in a work of imaginative writing? In the opinion of publicist Maxwell Stamp, they clearly can, as he wrote to the Times:

"The dead cannot be deprived of their property, but they can be deprived of their reputation, and real distress can with impunity be caused to a surviving widow or children. This unsatisfactory situation would be remedied by giving close relatives or executors the same right to sue, on behalf of the deceased's estate, that the deceased would have enjoyed if alive."

In an editorial comment,

the Times found this remedy wanting: "A jury would often find it difficult to reach a fair verdict without hearing the evidence of the real plaintiff—the dead man—to refute the arguments of the defense attempting to justify the libel. Historians would be unfairly restricted and the public interest would suffer if the law were changed..."

By initiating his suit, Capt. Prchal will allow the courts to weigh the truthfulness of Hochhuth's charges, and may throw some new light on the legal rights of the dead.