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- 125 Years -

Los Angeles County Bar Association

INSIDE *The face of the legal profession: legendary trials, increasing diversity, legal landmarks, leading the way in serving the public, and more.*

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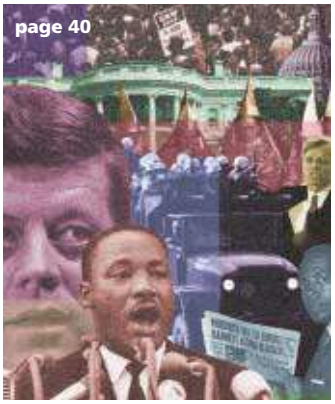
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Los Angeles County Bar Association

125 Years

By Megan A. Wagner

SPECTACULAR Los Angeles Trials

Sensational courtroom dramas involving Los Angeles legends Griffith J. Griffith and Alex Pantages led to changes in the law

Los Angeles is a city of remarkable places and remarkable people—and it is a city that loves a good story. The city relishes drama, both in real life and on the silver screen, and Los Angeles history is replete with amazing tales that have captured the imagination of its inhabitants.

Sometimes a Los Angeles story leads to an evolution in the law. Here are two such stories. The first is about an early benefactor of the city, Colonel Griffith J. Griffith, of Griffith Park and Griffith Observatory fame, and the second is about Alex Pantages, founder of the illustrious Pantages Theaters. Both were accused of sensational crimes; both put forward creative and ultimately successful defenses.

THE CASE OF THE SECRETIVE LUSH

Los Angeles has always been known for its celebrity lawyers. Perhaps none was as celebrated as Earl Rogers, described as the greatest criminal lawyer of his day. "Get Rogers to defend you if you're guilty" was sound advice in the early years of the twentieth century. He was as flamboyant as his cases. He lived high, dressed elegantly, and was always in debt. Rogers's demon was alcohol, which killed him, tragically, at the age of 50.

It may have been their mutual struggle with alcohol that led Rogers to defend Colonel Griffith J. Griffith, a bizarre and unlikable client accused of attempting to murder his wife. Griffith was a rich man of Welsh heritage who had made his fortune first in mining and then in real estate and finance. He was a short, pompous braggart with a reputation as a brilliant eccentric. In 1896 he deeded to the city of Los Angeles 3,015 acres that today are known as Griffith Park. His beautiful society wife, Christina, who traced her lineage to the Verdugo family,[1] was a devout Catholic.

The couple was vacationing at the posh Arcadia resort on the shore in Santa Monica. On the afternoon of September 5, 1903, after a stroll together by the ocean, Christina was in their room packing for the trip home. Suddenly, Griffith entered the room brandishing a gun and insisted that his wife kneel before him and place her hand on her prayer book. He demanded to know whether she was trying to poison him and whether she was faithful to him. As Christina pleaded with him to spare her life, Griffith shot her in the face. Somehow she struggled to a window and leapt two stories to the roof of the veranda below. She climbed through the window of a

Megan A. Wagner is a retired research attorney for the California Court of Appeal in the Second and Fourth Districts.

nearby room, crying that her husband had shot her and that "he must be crazy." Christina survived, but not without disfiguring injuries including the loss of her left eye.

Griffith fled. When he was finally arrested, he "claimed the gun had discharged accidentally during a struggle after he discovered his wife had tried to poison him."[2] Griffith announced he would defend himself against the charge of attempted murder.

The scandal soon erupted in the daily newspapers, with *People* v. *Griffith* captivating all of Los Angeles. Christina's family members let it be known that they did not believe Griffith's story. They obtained two highly regarded lawyers, Isadore B. Dockweiler and Henry T. Gage—the latter a former California governor—to act as special prosecutors in the case. Griffith later brought Rogers into the case, perhaps after he finally realized the implications of facing a formidable prosecutorial team.

Griffith was known as a teetotaler, and it was only Rogers's exhaustive investigation that revealed Griffith to be a secret drinker. In fact, Griffith drank about two quarts of whiskey a day, a habit he had managed to hide from Los Angeles society for years. For Rogers, the clue to Griffith's addiction was his fingernails, which were bitten to the quick. Rogers saw Griffith as a tortured soul living a double life to hide his addiction. Adela Rogers St. Johns, the daughter of Earl Rogers, wrote in a book about her father that he likened Griffith to Dr. Jekyll and Mr. Hyde.[3] Indeed, Rogers's own problems with alcohol may have helped him understand Griffith's secret more readily than others.

The trial began on November 8, 1903, and the courtroom was packed with avid curiosity seekers. The case against Griffith appeared to be airtight. Christina, dressed completely in black, her face covered by a black veil, limped to the stand on the arm of the gallant Gage, the former governor. She appeared delicate and fragile and she told the story of the shooting in what was often a whisper. The courtroom was deathly quiet, and when Gage asked her to lift her veil, the crowd gasped at the sight of her ravaged face. After looking at Christina's face, with her left eye covered by a black patch, no one could have doubted that her husband had intended to kill her. The doctors could not explain how she had managed to survive.

Rogers had decided to defend Griffith on a theory he termed "alcoholic insanity." He kept this strategy secret until he chose to spring it on the prosecution during his cross-examination of Christina. After Christina's direct testimony, Rogers asked the judge to order a recess in the trial until the next day, at which time Rogers would commence his cross-examination of Christina. Rogers noted that he intended to take some time and was solicitous of the witness's stamina under the circumstances. The courtroom was agog. The pundits were astonished. What could Rogers have in mind? Surely an extensive cross-examination of Christina could only prejudice Rogers's client further, if that was even possible. But Rogers saw Christina as a potential ally. As he told his daughter, "No woman ought to have to live with the knowledge that her husband has murdered her."[4]



Public figure and secret drinker Griffith J. Griffith

Photo: Dept of Special Collections, Charles E. Young Research Library, UCLA

The next day, during his cross-examination, Christina admitted that Griffith had always been kind to her, solicitous of her health and comfort. Then Rogers carefully elicited that this was not the first time Griffith had accused Christina of infidelity and attempting to poison him. With utmost delicacy he prompted her to admit the unthinkable: When Griffith was accusatory toward her, he was drunk. He coaxed her, telling her that as a loyal wife she of course did not want to admit her husband's failings. However, she must understand that he was suffering from a disease and needed a chance to be cured. It may have been the first time alcoholism had been used as a defense and referred to as a disease in an American courtroom.

Rogers asked Christina about her husband's wild accusations:

"**A.** Yes. It was—principally from drinking—that he would ask those questions.

Q. Foolish questions. Questions like a drunk asks. You had never given him any cause to believe such things were true?

A. Oh no, sir. Never, Mr. Rogers, never.

Q. He never had any sober sane reason to doubt you, did he?

A. I was always a pure woman and a faithful wife to him.

Q. But he made this accusation?

A. Yes.

Q. Many times?

A. Lately—

Q. When he was drinking? Wait a moment, Mrs. Griffith. Had you ever in your life seen a drunken man before you saw your husband drunk?

A. No—not close to—never.

Q. At first you did not know your husband did not drink in public?

A. No sir.

Q. So you never saw him take a drink?

A. Not for a long time.

Q. So you didn't have any idea what was the matter with him?

A. No—no. Not at first.

Q. And when you did find out as a wife must, you didn't tell a soul?

A. Only the priest.

Q. You were ashamed to have anyone know?

A. I didn't know what to do.

Q. You'd had no experience of any kind with drink, had you?

A. No—no I hadn't.

Q. You were bewildered and unhappy and



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didn't know what to do?
A. I told him—my husband—he got angry and said it wasn't true.
Q. He denied there was anything to worry about?
A. He said he did not ever take a drink, I was mistaken.
Q. Now at this moment though, Mrs. Griffith, you do realize that it was when he was drunk or when he was still under the influence to some extent that he did these things?
A. Yes.
Q. After the shooting when you spoke to Mr. Wright and told him you were wounded to death—what else did you say?
A. I said my husband shot me.
Q. Anything else?
A. I said he must be crazy."[5]

Rogers's questions during the cross-examination were the patient groundwork leading to this last statement. Rogers asked Christina again whether her husband seemed to be crazy, and she reiterated that he must have been. Then Rogers continued: "You knew, didn't you, Mrs. Griffith, you know now…that your husband couldn't have shot you or tried to kill you if he hadn't been crazy—crazy drunk—insane from alcohol?" After she replied, "Yes—yes-"[6] Rogers stopped his cross-examination and helped Christina back to her seat.

Rogers brought in doctors as expert witnesses, including C.G. Brainerd, the country's leading "alienist"—a word used at the time to describe the first psychiatrists or brain specialists. To each of the doctors Rogers posed an elaborate hypothetical based on his theory that alcoholic insanity could do away with an intent to kill. In response to the hypothetical, Brainerd answered, "Under the terms in which you have described alcoholic insanity, I would say so beyond any doubt."[7] It may have been the first time in an American courtroom that anyone had tried to treat alcoholism as an affliction rather than a character flaw. Clearly, Rogers's theory was a precursor to the later well-accepted theory of diminished capacity.

In his final argument, Gage ridiculed Rogers's theory of alcoholic insanity. Instead, he portrayed Griffith as a rich man trying to get off on a trumped-up theory devised by a tricky attorney. Gage said, "A rich man has committed this brutal attempt at murder. No rich man has ever been punished for such a crime in these United States. A rich man thinks he cannot be punished."[8]

The jury, however, appeared to take Rogers's theory of alcoholic insanity very seriously. After deliberating for two days, the jury found Griffith guilty of attempted murder and sentenced him to two years in the state penitentiary, with instructions that he be

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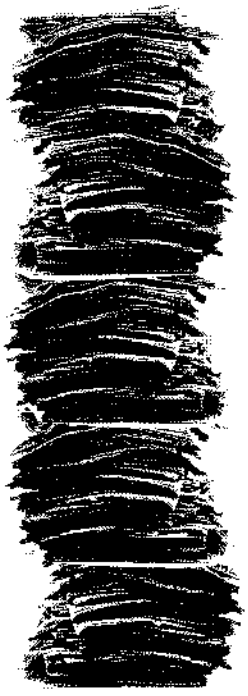
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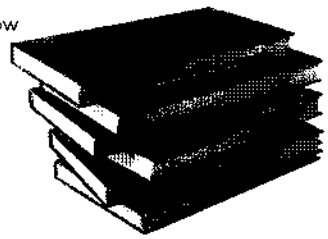
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given "medical aid for his condition of alcoholic insanity."[9]

Rogers's daughter tells us that Rogers considered the verdict to be a defeat.[10] For Griffith, however, the verdict appeared to be a victory. He was released from prison after one year, sober and apparently a changed man. He devoted a good deal of his money to prison reform and helping convicts after they finished their prison terms.[11] At first, the city of Los Angeles spurned Griffith's donation for the construction of an observatory in the park created by Griffith's earlier donation of land. Griffith persevered, however, donating more real estate and money to the city and eventually bequeathing Los Angeles $700,000 in a trust fund for the maintenance of the park. Los Angeles finally acknowledged him and named the park he had donated Griffith Park, as well as naming Griffith Observatory, Griffith Park Drive, and Griffith Park Boulevard in his memory.[12]

THE CASE OF THE FRAMED MOVIE MOGUL

While 1929 was a bad year for the American people, it was a complete disaster for the Pantages family. Alex Pantages, the founder of the Pantages theater chain, was convicted of rape and sentenced to life in jail. His wife, Lois, was charged with first-degree murder arising from a drunk-driving accident.

The case of *People* v. *Pantages*[13] fascinated the public. The rumors surrounding the case are almost more intriguing than the actual facts. At the age of 53, Pantages found himself accused of rape by a sweet-looking, 17-year-old aspiring actress named Eunice Pringle. His life and his reputation were in tatters. But had Pantages been set up by a harlot and her agent boyfriend? Had Pringle been paid to frame Pantages by Joseph P. Kennedy, the father of President John F. Kennedy, because the elder Kennedy, a competitor in the theater business, wanted to buy some of Pantages's properties and Pantages had refused to sell them? And did Kennedy want Pantages's theater properties to showcase the talents of Kennedy's mistress, Gloria Swanson? The rumors and speculation swirled around Los Angeles, and particularly Hollywood, for years.

Pantages had been a true American success story. He was a Greek immigrant, born Pericles Pantages,[14] who made his first money in the Alaskan gold rush in the 1890s. During that period, at the age of 18, he bought his first vaudeville theater in Nome. In 1902, he moved to Seattle, Washington, and started a theater that combined vaudeville and films. This theater became the first in what was to become a nationwide chain. In 1910, Pantages moved to Los Angeles. By 1929, he was a wealthy man, running his theater empire from his



Photo: Specialized Libraries & Archival Collections - University of Southern California

Theater magnate Alex Pantages

offices above the beautiful Pantages flagship theater on the corner of Seventh and Hill Streets in downtown Los Angeles.

In August 1929, Pringle, a college dropout and vaudeville hopeful from Garden Grove, California, was seen hanging around Pantages's offices asking for an audition. She apparently had a somewhat suggestive, quasi-acrobatic song-and-dance routine involving barbells. On August 9, she walked into Pantages's private office and within minutes was seen running out with her clothing torn, yelling that she had been raped: "The telephone switchboard operators noted that as Pringle ran past she was ripping her clothes off, not putting them on."[15] Pringle claimed that Pantages had torn her dress apart, dragged her into a broom closet, and raped her.

District Attorney Buron Fitts and Chief Deputy District Attorney Robert Stewart prosecuted the case against Pantages. W. I. Gilbert and W. Joseph Ford, Pantages's defense attor-

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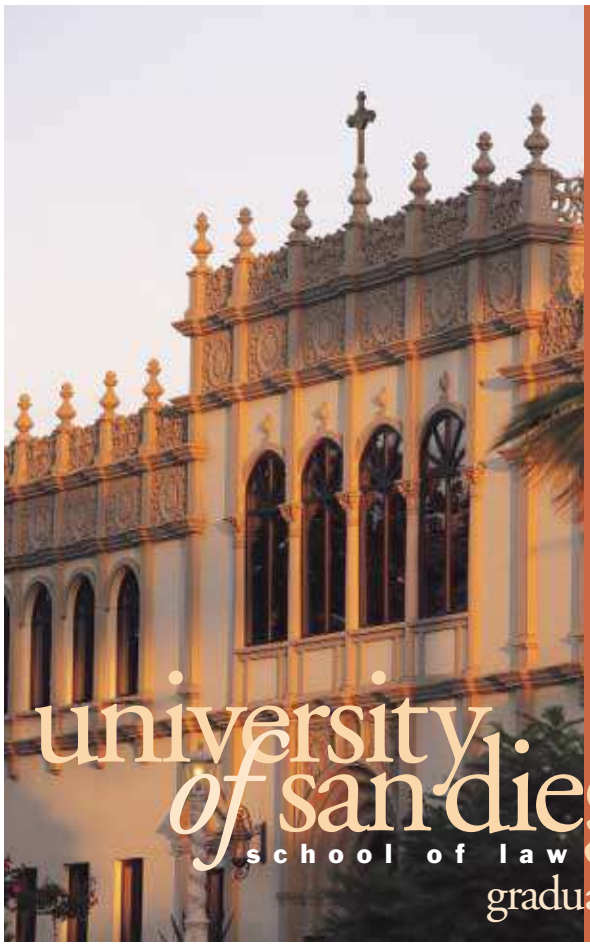


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neys, produced witnesses at the preliminary hearing who testified that Pringle was not the innocent that she appeared to be. They said she lived with her agent and that he had boasted of a monetary windfall connected to the *Pantages* case. However, at trial, Fitts objected to this testimony, and his motion to suppress all testimony about the complaining witness's background was granted. The only negative information about Pringle that was admitted into evidence was that she no longer lived at home and that she had dropped out of school.

Pringle appeared at trial dressed in a girlish frock and flat shoes with her hair tied back modestly with a childlike bow. She described in lurid detail how Pantages had solicited lewd acts from her in exchange for booking her act and then had brutally molested and raped her. The press loved Pringle, proclaiming her a paragon of American girlhood and virtue. By contrast, Pantages's broken English made him sound guilty to the xenophobic press. He was condemned as a child rapist and an alien menace. The city was whipped into a frenzy by firebrand radio preachers like P. R. "Bob" Shuler and Gustav Briegleb, who denounced the wealthy Greek immigrant.

No one was interested in listening to the frail-looking immigrant's story. Pantages admitted knowing Pringle. Several weeks before the alleged rape she had performed her act as an audition for Pantages but had not been hired. Pantages surmised that Pringle had bought a theater ticket and then sneaked into his offices, tore her own clothes, and screamed rape as part of a frame-up.

At about the same time, Pantages's wife, Lois, was involved in a traffic accident. Numerous witnesses said that she was on the wrong side of the road when her expensive Stutz automobile hit a car driven by a Japanese-American gardener, Juro Rokomoto. Police officers and medical personnel responding to the scene of the accident stated they could smell liquor on Lois's breath. Rokomoto suffered a broken pelvis, and several of his family members were also injured in the accident. When Rokomoto died in surgery, Lois Pantages was charged with first-degree murder. The team of lawyers that had been defending Alex Pantages took over Lois's defense, and Jerry Giesler, who was lesser known than Ford and Gilbert, was hired as Alex's defense counsel. Giesler would go on to become famous in his own right as a fabled attorney for Hollywood stars.

In Alex's trial, District Attorney Fitts took full advantage of the accusations against Alex and his wife, emphasizing the depravity of the wealthy Pantages clan in his argument to the jury: The husband was an accused rapist,

and his wife was an accused murderer.[16] In addition, having successfully excluded evidence that Pringle was unchaste, the district attorney stated that Pringle was a virgin in his argument to the jury, a fact that had not been proven at trial. He pounded on this theme over and over again, arguing at one point, "Are the American jurors of today, are men and women of this country, going to stand here and let that man with all of his power or authority in America cover up and brand with infamy, by reason of the very power and wealth and strength that he has, *after taking this girl's virginity, after destroying her character,* then to brand her with the infamy of being a blackmailer by reason of the very position he holds?"[17] The jury took no time convicting Alex Pantages of statutory rape, and he was sentenced to 50 years in prison without parole.



Alleged rape victim Eunice Pringle

Photo: Los Angeles Daily News Collection, Dept of Special Collections, Charles E. Young Research Library, UCLA

Giesler appealed the conviction, arguing not only that the district attorney had committed prejudicial misconduct in the case but also that the trial court erred in excluding evidence as to whether Pringle was a virgin at the time of the alleged rape. The question presented was whether such evidence about a complaining witness was admissible in a statutory rape case. At that time, evidence of a victim's lack of chastity was admissible in a nonstatutory rape case, both to show consent by the victim and to discredit her testimony regarding the use of force. But in a statutory rape case, which involves an accusation of an unlawful sexual act with a minor who presumably cannot consent, evidence that a victim was unchaste was inadmissible. In the *Pantages* case, however, in which Pringle had maintained the rape was accomplished by force, the California Supreme Court ruled otherwise. The court held that if a statutory rape victim claims that force was used to accomplish the rape, the victim's prior chastity (or lack thereof) is put in issue because it tends to discredit her testimony regarding the use of force by the defendant. In its precedential decision, the court reasoned that the rule was necessary "to permit the accused to combat the showing of force.…"[18] Pantages's conviction was reversed, and he received a new trial.

Of course, the law on the admission of a rape victim's background has changed dramatically over the years. However, the observation made in the seventeenth century by Lord Matthew Hale that "[rape] is an accusation easily to be made and hard to be proved, and harder to be defended by the party accused, tho never so innocent"[19] was truer at the time of Pantages's trial than it is



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today. Advances in medical proof and DNA evidence have put a completely different emphasis on the rules governing evidence in rape trials since the *Pantages* case. In 1974, the California Legislature enacted one of the nation's first "rape shield" laws.[20] Among other things, the law limits the admissibility of evidence of the sexual history of a victim of an alleged rape.

However, justice was apparently served by the supreme court's ruling in the *Pantages* case. In November 1931, after Pantages had spent a total of three years in prison, the case was retried. At the second trial Eunice Pringle appeared in clothes similar to those she had worn on the day of the alleged rape. In a red dress with high heels and bright lipstick, Pringle was not quite the ingenue that she had appeared to be at the first trial. After the manager of the Moonbeam Glen Bungalow Court testified that Pringle lived with her lover-agent, Nick Dunaev, and Pringle admitted she had done so since the age of 15, the jury seemed to view her evidence in a different light. When hoots of laughter broke out as Giesler and his assistant acted out Pringle's description of the alleged attack, demonstrating that it would have been physically impossible for the rape to have taken place in the tiny broom closet, the case was over. The jury voted not guilty and Pantages was released from jail.

Pringle died mysteriously in 1933 of "unknown causes." Prior to her death she apparently told Giesler that she wanted to reveal the truth about her charge of rape against Pantages. She also reportedly told her mother and a friend on her deathbed that "Joseph Kennedy and [District Attorney] Buron Fitts had set up the phony rape, promising ten thousand dollars to Pringle and her agent-boyfriend [Dunaev], as well as acting work at a major movie studio."[21] That Joseph Kennedy was a Pantages competitor in the theater chain business probably fueled the rumors that Pringle's deathbed declaration was true.[22]

With the changes in the law that have occurred over the years, the *Pantages* case is legally unimportant. But the allure of the story, steeped in the Hollywood tradition of sex, lies, and theater magnates, still remains. ■

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[1] The Verdugo family pioneered much of Los Angeles after they received the 36,000 acre Rancho San Rafael, the first land grant in the region from the king of Spain.
[2] Margaret Leslie Davis, *The Society Wife Who Wouldn't Die: The Trial of Col. Griffith J. Griffith*, L.A. DAILY JOURNAL, May 15, 1995, at 1, 8.
[3] ADELA ROGERS ST. JOHNS, FINAL VERDICT 224-25 (1962).
[4] *Id.* at 227.
[5] *Id.* at 232-33.
[6] *Id.* at 233.
[7] Davis, *supra* note 2, at 8.
[8] ST. JOHNS, *supra* note 3, at 236.
[9] *Id.* at 237.
[10] *Id.*
[11] *Id.* at 238.
[12] Davis, *supra* note 2, at 8.
[13] People v. Pantages, 212 Cal. 237 (1931).
[14] "Pericles Pantages switched his first name to Alexander after reading about Alexander the Great." MICHAEL PARRISH, FOR THE PEOPLE 92 (1st ed. 2001).
[15] PARRISH, *id.*
[16] Lois Pantages's attorneys were able to show that Rokomoto died as a result of receiving too much anesthetic before the surgery for his broken pelvis, and the charge against her was reduced to manslaughter. Eventually she was convicted and placed on 10 years' probation.
[17] Pantages, 212 Cal. at 250 (emphasis in original).
[18] *Id.* at 277.
[19] 1 HALE, THE HISTORY OF THE PLEAS OF THE CROWN 634 (1st Am. ed. 1847), *quoted in* People v. Gammage, 2 Cal. 4th 693, 694-95 (1992).
[20] 1974 Cal. Stat. ch. 569, at 1388-89; 1974 Cal. Stat. ch. 1093, at 2320-21; EVID. CODE §§782, 1103; PEN. CODE §1127d. *See* Mary M. v. City of Los Angeles, 54 Cal. App. 3d 202 (1991) ("[T]he Legislature enacted one of the nation's first 'rape shield' laws, limiting the admissibility of evidence of a complainant's sexual history except under narrowly defined conditions and prohibiting an instruction that an 'unchaste woman' is more likely to have consented to sexual intercourse....").
[21] PARRISH, *supra* note 14, at 93.
[22] Pringle's alleged deathbed accusation has not been independently verified. But unfounded rumors are the stuff of Hollywood.

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