

# THE QUEENSLAND LAWYER

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<b>Punch and Jarrod: The pitfalls of Attorney-General (rather than judicial) activism and the need for an Attorney-General Code of Conduct</b> – <i>Louise Floyd</i>	
Much has been written on judicial activism. Importantly, Andrew Leigh’s 1999 article in the <i>Australian Law Journal</i> raised the concept of the “activist Attorney-General” (ie the Attorney-General emphasising the political goals of the government), whilst also acknowledging the complex position Attorneys-General find themselves in – they are politicians, yet part of their role is traditionally to defend the judiciary. The need for an Attorney-General to defend the judiciary has been championed by retired Justice Kirby. French CJ and Young J have acknowledged the need for respect by Parliament for the institution of the Bench whilst also acknowledging the complexity of the separation of powers. Against that background, this article examines the recent dispute between the Queensland Government (especially its Attorney-General, Jarrod Bleijie) and the courts (especially Hon Justice MA McMurdo AC, President of the Court of Appeal). That dispute reached the low point of the Attorney-General repeating to the Brisbane newspaper, <i>The Courier Mail</i> , details of his version of a confidential conversation he claimed to have had with the President about judicial appointments. That in turn led to the newspaper likening the dispute to a pantomime – which it called Punch and Jarrod. This article relies on previous scholarship and the latter-day non-academic writings of former Queensland Solicitor-General Walter Sofronoff QC to argue that Queensland has an activist Attorney-General who exhibits disregard for the traditional roles of Parliament and the courts. When judges have sought to criticise this Queensland Government, they have not been activist judges, but are rather defending the court (as it is their role to do). As Sofronoff observes, those same judges are often fighting with one hand metaphorically behind their backs; if they actually seek to honour the dignity of their office and confidences that the law (through privilege, for example) seeks to protect, they will never be able to defend themselves with the same public force as someone outside the judiciary can attack them. This article argues the Attorney-General should apologise to President McMurdo and that the government should introduce a Code of Conduct through which Attorneys-General are held accountable to the legal profession as well as their political peers. ....	66

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