

**A perspective on State President S.J.P. Kruger:
Chief Justice J.G. Kotzé's *Biographical Memoirs
and Reminiscences***

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Chief Justice J.G. Kotzé's two-volume *Biographical Memoirs and Reminiscences*¹ has on occasion been used as a source of information on State President S.J.P. Kruger and on the last twenty years of the history of the South African Republic.² It nevertheless appears that Kotzé's observations, descriptions and evaluations of Kruger have not yet been systematically assessed, despite the importance of his work as an alternative and fresh contemporary perspective on Kruger and his presidency.

Kotzé (1849–1940) grew up in Cape Town in a well-to-do Dutch-speaking family. After his tertiary education in Cape Town and then in London, he was admitted to the Cape Bar. He practised as an advocate in Cape Town and Grahamstown for a few years before he was invited by State President T.F. Burgers to become chief justice of the Transvaal. Before he could reach the Transvaal this territory was annexed by the British. The British administration in Pretoria nevertheless installed Kotzé as chief justice in May 1877, when he was only 27 years of age. Kotzé is the author of several publications. Apart from his two-volume *Biographical Memoirs and Reminiscences*, he published several other books and articles – *inter alia* the translation into English in 1882–86 of Simon van Leeuwen's *Het Roomsche-Hollands Recht: Het Stichten der Zuid-Afrikaansche Republiek en Hare Grondwet* (Pretoria, 1894); and *Documents and Correspondence Relating to the Judicial Crisis in the South African Republic* (London, 1898).³

From information in the Kotzé Collection in the Transvaal Archives it is clear that on a regular basis Kotzé consulted colleagues in Cape Town and Bloemfontein for example, on cases that came before him. He apparently used the points of view of such colleagues to confirm his own

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1. J.G. Kotzé, *Biographical Memoirs and Reminiscences*, 2 volumes (Maskew Miller, Cape Town, 1934 and 1949).
2. See, for example, J.S. Marais, *The Fall of Kruger's Republic* (Clarendon Press, Oxford, 1961); D.W. Kruger, *Paul Kruger*, 2 volumes (Dagbreek Boekhandel and Afrikaanse Pers, Johannesburg, 1961 and 1963); C. van Onselen, *Masked Raiders: Irish Banditry in Southern Africa 1880–1899* (Zebra Press, Cape Town, 2010); V.G. Hiemstra, "Kotzé, Johannes Gysbert", in W.J. de Kock (ed.), *Dictionary of South African Biography*, 1 (Nasionale Boekhandel, Cape Town, 1968), pp 438–441; J.C. Dirks, "Die Juridiese Stryd tussen Hoofregter Kotze en die Volksraad van die Suid-Afrikaanse Republiek 1897–1898", MA dissertation, University of South Africa, 1933.
3. Hiemstra, "Kotzé, Johannes Gysbert", pp 438–441.

opinion or to gain wider perspective on certain cases. When he disagreed with their views, however, there was sometimes sharp reaction on his side.⁴

Kotzé's position as chief justice of the South African Republic afforded him an excellent opportunity to gain insight into Kruger's unique qualities and his way of thinking. He was associated with Kruger in this capacity for about twenty years⁵ and had weekly appointments with him during this period.⁶ Furthermore, Kotzé appears to have made notes of his observations on a regular basis.⁷ When he was writing the text of his manuscript he frequently refreshed his memory from official contemporary publications such as the *British Parliamentary Papers*.⁸ He also conducted interviews and discussions with contemporaries to gain relevant information.⁹

Kotzé's observations are all the more valuable because he appeared to view Kruger through the eyes of an outsider, with a broader and different perspective. He was much younger than Kruger and his cultural and educational background was completely different. He was born into a well-established Afrikaner family in Cape Town with strong ties to English culture and society. To name one example, he preferred the English version of his first names, John Gilbert, to the original Dutch, Johannes Gysbert.¹⁰ When using the publications of Kotzé to reconstruct his relationship with State President S.J.P. Kruger one should take into account that Kotzé can be regarded as "something of a cultural hybrid" and "a lifelong Anglophile".¹¹

This article focuses on three aspects of Kotzé's comments pertaining to Kruger, namely his description of the role played by Kruger in the various phases of the history of the South African Republic; his negative evaluation of Kruger's reminiscences or *Gedenkschriften*; and thirdly, his close analysis of Kruger's character.

4. National Archives of South Africa, Pretoria, Transvaal Archives (hereafter TA), A.524, John Kotzé Collection; SA National Library, MSC7, Lord Henry de Villiers, 10, File 3.

5. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p 323, footnote.

6. Kotzé, *Biographical Memoirs and Reminiscences*, 2, p 126.

7. See, for example, Kotzé, *Biographical Memoirs and Reminiscences*, p 127; TA, A.524, John Kotzé Collection, 3, Part 1, Memorandum, Saturday 7 September 1895; and J. Scoble and H.R. Abercrombie, *The Rise and Fall of Krugerism* (William Heinemann, London, 1900) p 291: Appendix H, "Chief Justice Kotzé's reply to Mr Kruger's Assertions".

8. Kotzé, *Biographical Memoirs and Reminiscences*, 1, pp 416, 498, 502–503, 504, 588; and 2, pp 1, 158, 159, 161, 163, 164 and 165.

9. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p 274, footnote.

10. Hiemstra, "Kotzé, Johannes Gysbert", pp 438–441.

11. Van Onselen, *Masked Raiders*, p 152.

For the purpose of this article a selection has been made of the comments that best illustrate the role played by Kruger during the various phases of the history of the South African Republic as seen through the eyes of Kotzé. His *Biographical Memoirs and Reminiscences* only covers the period until January 1896 and his comments vary markedly from very negative to very favourable assessments of Kruger.

Kotzé's harshest criticism of Kruger concerns the pre-annexation period and especially Kruger's relationship with State President T.F. Burgers. This is an apparent anomaly since Kotzé only arrived in the Transvaal after Sir Theophilus Shepstone's annexation on 12 April 1877. One cannot help wondering whether the Kotzé family's friendship with the Burgers family and the fact that Burgers appointed Kotzé as chief justice of the Transvaal shortly before the annexation,¹² did not perhaps have some influence on Kotzé's assessment of Kruger in this early period. Furthermore, when gathering information on this period, Kotzé apparently only consulted people who were friends and/or appointees of Burgers, namely T.M. Tromp, E.J.P. Jorissen, James Buchanan and M.W. Vorster.¹³ Tromp was Burgers's private secretary, but he only arrived in the Transvaal a few months prior to the annexation and left immediately afterwards. His book on this period, *Herinneringen uit Zuid-Afrika ten Tijde de Annexatie van de Transvaal*, was published in 1879 in Leiden. Kotzé uses this publication quite extensively. Jorissen was recruited by Burgers during his visit to Europe in 1875 and he arrived in the Transvaal in February 1876.¹⁴ Buchanan was appointed attorney-general of the Transvaal by Burgers at the end of 1872, but departed for the Free State at the end of 1875.¹⁵ M.W. Vorster served on the Executive Council under Burgers and was his friend.¹⁶ Kotzé accepted without reservation their opinion that Kruger "intrigued against President Burgers"; that he "plotted against the President [Burgers]"; and that Kruger was a "born intriguer" – especially since Burgers referred to this in a declaration which he wrote shortly before his death.¹⁷

Elsewhere in the first volume of his *Biographical Memoirs and Reminiscences*, Kotzé levels the following accusation against Kruger:

[H]e displayed great activity in plotting against President Burgers to promote his own personal ambition, which was to oust Burgers and himself become President ... Mr. Kruger's active hostility towards Mr. Burgers, at a most critical time, is an unfortunate incident in his public career.¹⁸

12. Hiemstra, "Kotzé, Johannes Gysbert", pp 438–441.

13. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p 274, footnote.

14. E.J.P. Jorissen, *Transvaalsche Herinneringen 1876–1896* (J.H. de Bussy, Pretoria, 1897), pp 4–6.

15. Kotzé, *Biographical Memoirs and Reminiscences*, 1, pp 274–275; J.C. Moll, "Buchanan, James", in W.J. de Kock and D.W. Kruger (eds), *Dictionary of South African Biography*, 2 (Tafelberg, Cape Town, 1983) pp 95–96.

16. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p 495.

17. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p 274, footnote.

18. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p 317.

Biographers of Kruger and Burgers have argued convincingly in favour of taking a broader view. For example, if all the relevant information that can possibly be obtained is taken into account, one could arrive at a different conclusion. One of the arguments that biographers raise is that Kruger was against the appointment of Burgers as president from the very beginning, but that in time he began to appreciate some of his policies. At one stage, at the end of 1876, Kruger was even convinced that it would have been better to support Burgers for another term as state president rather than to find somebody from outside the Transvaal to fill this position. Shortly afterwards, Kruger was persuaded by his followers to make himself available as a candidate in the presidential election.¹⁹

Kotzé went even further in his negative evaluation of Kruger during the pre-annexation period. According to Kotzé:

During the existence of the first Republic prior to the Annexation of 1877, Mr. Paul Kruger had not shown any marked political or administrative ability. Although he was by nature a man of strong will, courage and resolution, and necessarily, in those early and stormy days of unhappy divisions, appeared as a prominent figure, he did not introduce a single reform nor promote the interest and progress of his country in any other way. He showed no special fitness in the earlier part of his career for political government, and his abandonment of Schoemansdal in 1867 was a serious setback to the Boer prestige in the Northern Transvaal.²⁰

Kotzé's lack of first-hand knowledge of this period is nowhere as strikingly illustrated as in this statement. As field-cornet, commandant and commandant-general at the time, Kruger was hardly in a position to introduce reforms. However, as early as 1850 as a 25-year-old assistant field-cornet, he took the initiative by submitting petitions to the Volksraad to caution them not to retract their previous decision to do away with the dominant position of the commandant-general and military officers in peace time. Furthermore, from an early age Kruger was a driving force in military operations against African communities. He was also a prominent member of the commission appointed by the Volksraad in 1855 to draw up a constitution for this new state north of the Vaal River. At the end of the 1850s he was one of the founders of the Gereformeerde Kerk in the Transvaal; and in the period of disunity and civil war he played a leading role in stabilising the Transvaal. Although Kruger was criticised for the failure of the commando against the BaVenda in Soutpansberg in 1867, a commission appointed by the Volksraad cleared him of all blame.²¹

In sharp contrast to his negative portrayal of Kruger during the pre-annexation period is Kotzé's very positive description of Kruger's role in

19. Kruger, *Paul Kruger*, 1, chapter 5; M.S. Appelgryn, *Thomas Francois Burgers Staatspresident 1872-1877* (HAUM, Pretoria, 1979), pp 4-10, 183-184; S.P. Engelbrecht, *Thomas Francois Burgers: 'n Lewenskets* (HAUM, Cape Town, 1933), pp 200-201, 244-246, 248-249, 267.

20. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p 346.

21. Kruger, *Paul Kruger*, 1, pp 37-38, 40-42, 44, 51-55, 56-60, 60-73, 82-86, 91-92, 93-96.

regaining the independence of the South African Republic. Significantly, Kotzé was in Pretoria at this time and experienced some of the events at first hand. He also made a thorough study of sources such as the relevant published correspondence in the *British Parliamentary Papers*. Kotzé writes the following about Kruger:

He became the strong man and the central figure in the movement for the restoration of the Republic. He carefully proceeded step by step, advising caution and the employment of peaceable means to attain the desired end; but afterwards, when he could no longer restrain his compatriots, and the die was cast in December 1880, he openly assumed the leadership and brought them safely through the war to victory. He seems to have been consistent throughout in his endeavour to make good the protest of his Government which had been entrusted to his care. As things turned out Sir Theophilus [Shepstone] had miscalculated his man in Kruger ... he was no mere illusioned dreamer, but a man of fervid patriotism and determined will. That he had unbounded faith in himself was in fact one of his many strong qualities.²²

Regarding the negotiations between Kruger and other members of the Boer Committee and the high commissioner, Sir Bartle Frere, Kotzé found Kruger's conduct impressive:

Calm and collected as usual, he was diplomatic as well, and did his best, with the other leaders, to lay their case before Sir Bartle, and impress upon him the wrong that had been done. On the other hand, he was skilful and tactful in helping his co-workers on the Committee to guide their countrymen aright, by emphasizing the use of peaceable means to attain their one great object, the restoration of the country's independence. His faith in the strength and justice of his cause was as great as his patriotism and his faith in himself.²³

Kotzé's positive assessment of Kruger's conduct in this period nevertheless lacks critical evaluation. For instance, one of Kruger's biographers criticises him for the fact that after the annexation he was willing to continue receiving a salary from the British authorities.²⁴ For Kotzé this was apparently not a matter of concern and he merely states the facts of the matter in his publication.²⁵ Further, Kotzé shows insufficient awareness of the period of uncertainty that Kruger went through while negotiating with Lord Carnarvon, the British secretary of state for the colonies, in London in the last half of 1877, when the first Boer deputation from the Transvaal visited England.²⁶ But perhaps one should take Kotzé's remark about his description of the annexation period into account here. He writes: "My purpose is not to write history, but rather to chronicle events and comments on them where necessary."²⁷

22. Kotzé, *Biographical Memoirs and Reminiscences*, 1, pp 496–497.

23. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p 589.

24. Kruger, *Paul Kruger*, 1, pp 156–157, footnote 17.

25. Kotzé, *Biographical Memoirs and Reminiscences*, 1, pp 502–503, 510–511.

26. Kotzé, *Biographical Memoirs and Reminiscences*, 1, pp 416–417, 494–495, 503–507; Kruger, *Paul Kruger*, 1, pp 134–149.

27. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p 352.

Kotzé's experience of Kruger in the period that immediately followed the regaining of independence until Kruger's departure for England in September 1883 for discussions on amending the Convention of Pretoria, left Kotzé with mixed feelings. On the one hand he had high praise for Kruger's leadership and efficiency:

Mr. Kruger showed great zeal and energy in carrying out his duties as head of the State. Besides the interest he took in bringing about the Convention of London, which replaced that of Pretoria, he set on foot an inquiry into the financial and economic position of the country by appointing a commission to investigate and report thereon. He also took steps to provide more fully than had been done in the previous decade for the regulation of mining for precious metals and stones.²⁸

Kotzé was less enthusiastic about Kruger's concession policy:

The newly-elected President was a strong believer in the establishment of factories in order, by their means, to promote the manufacture of the country's products, and he strongly believed in the adoption by the State of a concession policy as the sure means of promoting local industries. He could not be persuaded that the granting of monopolies was injurious to the trade and commerce of the country.²⁹

It was during this period that Kotzé, who was then in his early thirties, had an unpleasant confrontation with Kruger on the possible appointment of an additional judge. Kotzé was not in favour of the person suggested by Kruger and members of the government. He refers to this in the following way:

I ... calmly and seriously intimated to Mr. Kruger that I much feared that the contemplated appointment, if made, would mean my resignation as Chief Justice. Mr. Kruger, quick as a flash of lightning jumped up from his chair, thumped with his fist on the table and said in a thundering voice: "Now you are threatening me, and I never allow any man to do that" ... I quietly yet gravely replied, "I have too much respect for you ... as well as for myself, to indulge in threats when discussing so important a matter ... and I much regret that you should for a single moment entertain such a thought". Mr. Kruger thereupon resumed his seat, and said "I am sorry that I was a little hasty".³⁰

Kotzé's impression of Kruger's conduct during the period 1885 to 1895 was largely ambivalent as well. He seems to have appreciated some aspects of Kruger's conduct as state president at this time. He describes with approval Kruger's straightforward way of dealing with foreign diplomats. In one instance, in 1887, Ralph Williams, the British agent in the Transvaal for the period 1887–1889, interrupted a meeting between Kruger and some

28. Kotzé, *Biographical Memoirs and Reminiscences*, 2, pp 33.

29. Kotzé, *Biographical Memoirs and Reminiscences*, 2, pp 24–25.

30. Kotzé, *Biographical Memoirs and Reminiscences*, 2, pp 16–17; the person referred to was E.P.J. Jorissen with whom Kotzé had meanwhile had a few unpleasant encounters (TA, A.524, John Kotzé Collection, 1, Part II, P. Hartingh, Amersfoort, the Netherlands - J.G. Kotzé, 23 October 1883; and J.G. Kotzé - P. Hartingh, 6 January 1884); Kruger, *Paul Kruger*, 2, pp 13–18.

members of the Executive Council to request clarification on a worrying newspaper report. Kotzé describes this incident in the following way:

He ... went up to the President with the newspaper in his hand, and pointing to the aforesaid notice asked "What is the meaning of all this?" Mr. Kruger, turning to [W.E.] Bok [the state secretary], said "Tell him that if he has any official communication or other request to make, he must do so in writing, and I will consider it and let him have an answer".³¹

While he may have commented favourably on Kruger's conduct in this instance, Kotzé displays obvious irritation with Kruger's apparent meddling in the functioning of the judicial system of the South African Republic. Kruger's reluctance to appoint Kotzé's candidate, Ewald A. Esselen, to the Bench in the republic in 1886, was possibly a less serious matter but nevertheless created tension. Kotzé relates the incident in the following manner:

When the vacancy on the Transvaal Bench ... occurred, I wrote to [Ewald] Esselen, asking him if he would be prepared to accept a Judgeship at Pretoria if offered him. He replied in the affirmative. I then approached the President ... We were alone, and, on putting the matter to him, Kruger replied, "You wish me to appoint Esselen as Judge, but that I cannot do, for he is not sound in the faith, and therefore cannot take the oath as required of a Judge". I remarked that this was rather a strange assertion, and asked what made him think so. The President answered "He told me so himself when I was in London to get the Convention altered. Unless he becomes converted I cannot think of appointing him as a Judge". Kruger was evidently quite serious about it, and so I did not for the moment pursue the matter any further. I wrote to Esselen, telling him exactly what had happened, and this led to his entering into a correspondence with the President, and keeping me advised. In consequence of this I went again to interview the President, who, on my greeting him said "I know what you have come to see me about. It is now all right with Esselen. He has written me a nice letter which has satisfied me and I have accordingly instructed [W.E.] Bok [state secretary] to write to him to say that he can now come".³²

The Nellmapius case occurred in September/October of the same year as the contentious appointment of Esselen. This led to a significant clash between Kruger and the Executive Council on the one hand and Dr W.J. Leyds, the then state attorney, and the Transvaal judges on the other. A.H. Nellmapius was an important industrialist and friend of Kruger's. Despite this, Leyds decided that legal proceedings should be instituted against Nellmapius. Nellmapius was eventually convicted of embezzlement by Justice S.J. Brand and a jury. Some objections were reserved by the judge for the attention of the full court. Before this could happen the Executive Council reviewed an application by Nellmapius and prematurely pardoned him. An angry exchange of views took place between Brand and Kruger on the matter, after which Brand resigned. Kotzé, who was elsewhere at the time of these events, ordered the re-arrest of Nellmapius after his return, which created more tension between the judges and the Executive Council. The problem was eventually solved when the full court

31. Kotzé, *Memoirs and Reminiscences*, 2, p 140.

32. Kotzé, *Memoirs and Reminiscences*, 2, pp 80–81.

decided to release Nellmapius. Kruger was, however, not prepared to reappoint Justice Brand. According to Kotzé, “[t]he citizens of the capital had been much perturbed at the action of the President and Executive Council, and considered that there had been an undue interference by the Government with the ordinary course of justice”.³³

Some five years after the Nellmapius case, the case against Hugh McKeone and William Cooper was brought before Chief Justice J.G. Kotzé in Pretoria in October/November 1891. Kotzé handed down the death sentence for armed robbery, but without evidence that they had taken anyone's life. He was supported in this by his fellow judges in the Transvaal. Kotzé was, however, severely criticised in the English newspapers in the Transvaal. There was also agitation against the sentence in public circles as far afield as the Kimberley diamond fields. State President Kruger and the Executive Council eventually granted McKeone and Cooper a reprieve to life imprisonment.³⁴

The next instance of possible meddling by Kruger in the judicial system, according to Kotzé, occurred a few years later. When a commando against the Hananwa of Mmalebôhô was raised in 1894, some British subjects who had been resident in the South African Republic for more than two years declined to go on commando after being called up. This led to a court case, but the court ruled against them. While the court case was in progress on 15 June 1894, Kruger apparently tried to discuss the case with Kotzé, who describes the incident as follows:

On the 15th June the Court was sitting ... and adjourned at the usual hour for lunch. While the Chief Justice, who was presiding at the hearing of this case, was at table there was a loud knock at the front door, which was opened by the maid, when the powerful voice of Mr. Kruger, calling out in a loud voice “Waar's die Hoofd Regter?” (where is the Chief Justice?), startled the family. I rose from my chair and found the President in the sitting-room. He jumped up as I entered and in an agitated manner commenced talking about the pending case. I was surprised and much concerned at Mr. Kruger's indiscretion, and stopped him from proceeding further by impressing upon him the impropriety of his visit and its compromising character as regards himself, the Bench and the State, explaining that I was absolutely precluded from discussing the pending matter with him, and urged him to return home. The President fortunately realised his mistake and left. He never at any time after referred to this incident.³⁵

It is rather surprising that Kotzé's *Memoirs and Reminiscences* makes no mention of his candidature for the presidential election of 1893, in which he stood against Kruger and P.J. Joubert. In a letter to Kruger, dated 2

33. Kotzé, *Memoirs and Reminiscences*, 2, pp 85–107. Also see TA, A.524, Sir John Kotzé Collection, 7, Part I, for various documents pertaining to the case. It is quite interesting that Kotzé consulted some prominent legal experts elsewhere in South Africa on this. See also L.E. van Niekerk, *Kruger se Regterhand: 'n Biografie van dr. W.J. Leyds* (J.L. van Schaik, Pretoria, 1985), pp 34–38.

34. Van Onselen, *Masked Raiders*, pp 151–160; Kotzé, *Memoirs and Reminiscences*, 2, pp 146–155.

35. Kotzé, *Memoirs and Reminiscences*, 2, pp 204–205.

August 1892, Kotzé assured Kruger that his own candidature should not be seen as an act of ill feeling towards the president. It was Kotzé's conviction that (as was the case with George Washington of the United States of America) a president should only serve two terms. Everybody, even those who occasionally differed with Kruger, acknowledged his many strong characteristics and qualities of leadership, especially with regard to maintaining the independence of the country. However, there were certainly challenges on matters such as the mining industry; the establishment of new cities; the key role of the agricultural sector in this new dispensation; and the importance of African labour; all of which required urgent attention, reform and innovative leadership. Despite his intended candidature in the coming presidential election Kotzé trusted that the friendly relations between himself and Kruger would be maintained.³⁶ In response to this letter Kruger expressed his appreciation for the positive remarks about his previous terms as president. He added that despite the fact that he did not agree with Kotzé's views on the other aspects that he had touched upon, Kruger was of the opinion that this need not affect their friendly relations.³⁷

An important incident of a sensitive nature in which Kotzé played a significant role in assisting Kruger and the ZAR, was the so-called Jameson Raid at the end of 1895. Kotzé, who was on holiday in Cape Town, wrote an urgent letter to Kruger on 19 December 1895 and sent it with F.C. Eloff, Kruger's private secretary, who was also in Cape Town at the time. Following a conversation with Kruger before his departure from Pretoria in which Kruger referred to dangers that threatened the republic, Kotzé became aware of disturbing asides and reports in Cape newspapers and his private conversations with people in Cape Town. He surmised that trouble might well be brewing for the ZAR and made plans to hasten back to Pretoria to assist the president.³⁸ On 26 December he sent a telegram to the state secretary informing him that he was returning by train immediately and added: "There is danger. Inform the State President".³⁹

In Pretoria a few days later, Kruger and members of his government, as well as Kotzé and other judges, were discussing and analysing the first news of the Jameson Raid on 31 December 1895, when Von Herff, the German consul-general, interrupted them with a formal request. Kotzé relates this incident in *Memoirs and Reminiscences*, volume 2, in the following passage:

As he entered [C.] van Boeschoten [acting state secretary] rose from his chair and shook hands with him. At the same moment Kruger asked Van Boeschoten "Wie is die kerel?" (Who is this man?) Van Boeschoten explained that he was the German Consul-General. "Tell him", said the

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36. TA, A.524, Sir John Kotzé Collection, 3, Part III, Chief Justice J.G. Kotzé - State President S.J.P. Kruger, 2 August 1892.
 37. TA, A.524, Sir John Kotzé Collection, 3, Part III, Private Secretary of State President - Chief Justice J.G. Kotzé, 5 August 1892.
 38. TA, A.524, John Kotzé Collection, 3, Part IV, J.G. Kotzé, Cape Town - State President S.J.P. Kruger, 19 December 1895.
 39. TA, A.524, John Kotzé Collection, 3, Part IV, Telegram J.G. Kotzé - State Secretary, Pretoria, 26 December 1895.

President, "that we are busy now". Van Boeschoten whispered to the President that "He has come in his official capacity and has probably a message from his Government to communicate". "Now, well, let him tell me what it is". Van Boeschoten thereupon politely conveyed to Von Herff that the President desired to know the object of his visit. Von Herff ... thereupon stated that he had been commissioned by his Government, now that an armed foreign force had invaded the Republic, to request permission of its Government to move a body of fifty marines from a German Warship, at present at Lourenço Marques, to Pretoria, in protection of the Imperial German Consulate! On this being translated to the President, the latter with a smile and a firm voice, promptly said: "Sê vir hom, as hy bang is, zal ik hom 50 van myn burgers gee om vir hom op te pas" (Tell him that, if he is afraid, I will give him 50 of my burgers to protect him). Such were the very words of Kruger, whereupon there was subdued good-natured laughter from us all, at which Von Herff seemed amused. The shrewd representative of the German Reich nevertheless intuitively grasped the real meaning of the President's words, and with a polite bow made his exit. When the door had closed on him Kruger remarked: "How could his Government be satisfied to send him here with such a request?" We were all much relieved and applauded the President's ready and adroit reply, that so admirably suited the occasion ... I was glad to have been present at the little scene above described, for it removed a doubt which had arisen in my mind, in as much as the President's prompt and genuine reply to the request of Imperial Germany satisfied me that, while he may on occasion have coquetted with Berlin, he had not gone further, and was not disposed to allow himself to be used as a cat's-paw.⁴⁰

Kotzé continued to assist the state president in various ways for quite some time in connection with the Jameson Raid.⁴¹ On 20 January 1896 he and his fellow judges were officially thanked by Kruger for their assistance.⁴²

A serious disagreement between Kotzé and Kruger arose a few years later, however, on the right of the court to investigate whether informal resolutions in particular, had been properly passed as laws by the Volksraad according to the procedure prescribed in the constitution.⁴³ This issue eventually led to the termination of the relationship between Kotzé and Kruger and should be briefly mentioned here, despite the fact that it was not included in *Memoirs and Reminiscences*. Although Sir Henry de Villiers, the chief justice of the Cape Colony, mediated in the controversy in March 1897, Kotzé was convinced afterwards that Kruger had delayed the issue unnecessarily. Kruger subsequently dismissed Kotzé in February 1898.⁴⁴ In

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40. Kotzé, *Memoirs and Reminiscences*, 2, pp 235–237. Also see Marais, *The Fall of Krugers' Republic*, p 98.
 41. J.G. Kotzé (for S.J.P. Kruger) - J.H. Hofmeyr, 1 January 1896, in J.H. Hofmeyr and F.W. Reitz, *The Life of Jan Hendrik Hofmeyr (Onze Jan)* (Van de Sandt de Villiers Printing, Cape Town, 1913) p 492; TA, A.524, John Kotzé Collection, 12, Part II, Telegram, J.G. Kotzé, Cape Town - State President S.J.P. Kruger, no date.
 42. TA, A.524, John Kotzé Collection, 3, Part IV, C. van Boeschoten, Acting State Secretary - Chief Justice J.G. Kotzé *et al*, 20 January 1896.
 43. Although Kotzé's *Memoirs and Reminiscences*, 2, two only covers the period to 1896, Justice B.A. Tindall (ed.) included the following as Appendix 1: "An Appeal to the Inhabitants of the South African Republic", which was written by Kotzé in 1898 (pp 265–295).
 44. Hiemstra, "Kotzé, Johannes Gysbert", pp 439–440; B.A. Tindall, "Introduction" in Kotzé, *Memoirs and Reminiscences*, 2, pp ix–xlvii; SA National Library, MSC 7, Lord Henry de Villiers Collection, 10, File 3; TA, A.524, John Kotzé Collection, 4

1968, Judge V.G. Hiemstra expressed the following opinion on the matter: "[E]ven today there is no unanimity among jurists as regards the merits of this dispute."⁴⁵

On 12 May 1898, Kruger referred to the issue and to Kotzé in a speech, saying:

You know that our late Chief Justice, with some of his colleagues, adopted the right of criticism and became as wanton as a fish in the water that was free to swim about as it pleased. However, he jumped out of the water, that is to say, out of the law, on to dry land. The Volksraad then passed a resolution, with reference to the laws of the land to the effect that if a judge refuses to submit to them, I must dismiss him. I did my best, but the late Chief Justice was as slippery as a fish that has jumped out of the water, so that I could not master him. Then his colleague, the Chief Justice of Cape Colony, who knew the ability of our late Chief Justice, came, of his own accord, to my assistance, and we got him back into the water, that is to say, the law. Then I was glad, because I knew the ability of the late Chief Justice and did not wish to lose him. After that, the late Chief Justice again became so wanton that he jumped so far out of the water that I saw no chance of getting him back and had to let him go, the more so as he then roundly declared that he did not wish to go back to it, because he refused to acknowledge the law as I understood it.⁴⁶

Kotzé then discussed his position with Sir Alfred Milner, governor of the Cape Colony and high commissioner for South Africa, in Cape Town, and with the new British agent in Pretoria, C. Greene. He complained to the British government about his dismissal and the treatment he had received. Although Milner and the British government sympathised with Kotzé, they were not prepared to intervene. The British government took the view that this was an internal issue and should be handled by the South African Republic.⁴⁷

Kotzé advances convincing arguments for his negative evaluation of Kruger's reminiscences, which was first published in 1902 in Dutch under the title *Gedenkschriften van Paul Kruger*. He is of the opinion that "little reliance can be placed on it, except where supported by other acceptable evidence".⁴⁸ The historian S.P. Engelbrecht, writing in 1933, concurred with Kotzé. He states, *inter alia*, that *Gedenkschriften* contains many errors and he places the blame on the editors and compilers, among them Frederik Rompel.⁴⁹ W.J. Leyds, with whom Kruger worked very closely in the ZAR and later in Europe, expressed an opinion on the book shortly after its

and 5; Marais, *The Fall of Kruger's Republic*, pp 141–145; J.F. van Oordt, *Paul Kruger en de Opkomst der Zuid-Afrikaansche Republiek* (HAUM, Kaapstad, 1898) pp 781–785.

45. Hiemstra, "Kotzé, Johannes Gysbert", p. 440; Tindall, "Introduction", pp xliii–xliv.
46. TA, ZAR 173; English translation in S.J.P. Kruger, *Memoirs*, 2 (T. Fisher Unwin, London, 1902) pp 405–406.
47. C. Headlam (ed.), *The Milner Papers, Volume I: South Africa 1897–1899* (Cassell, London, 1933) pp 214, 216, 218, 224–225, 227; Tindall, "Introduction" pp xl–xli. Also see Marais, *The Fall of Kruger's Republic*, pp 140, 191–192, 204–207.
48. Kotzé, *Biographical Memoirs and Reminiscences*, 2, p 323, footnote.
49. Engelbrecht, *Thomas Francois Burgers*, pp 201 footnote and 218 footnote.

publication in 1902. He felt that it was no more than a collection of anecdotes and that it could have been far better done.⁵⁰

Kotzé alludes firstly to the many factual errors in the publication. He also draws the attention of the reader to a remark by the compilers that up to the time of the Jameson Raid of 1896 the contents of the book depend entirely on Kruger's memory – the implication being that this could have been the reason for at least some of the inaccuracies. Kruger had dictated his recollections to his personal secretary, H.C. Bredell, and to Piet Grobler, who was one of the under state secretaries of the South African Republic, and whose mother was Kruger's niece. As examples of very basic errors in *Gedenkschriften*, Kotzé refers to the misstatements that Sir Theophilus Shepstone attended the session of the Volksraad in 1877; and that Kruger was still commandant-general at the outbreak of the Sekhukhune War of 1876. Kotzé also rejects the reasons given in *Gedenkschriften* on why Kruger was unwilling to lead the commando against Sekhukhune as "contrary to fact". Another of Kotzé's reservations was that in the process of writing down what Kruger had dictated to Bredell and Grobler, they might possibly have replaced Kruger's unique turn of phrase with their own interpretations and formulations. Kotzé's main concern is, however, the role played by the editor, Frederik Rompel. He comments as follows:

Taking that the editor has done his best to preserve the character of the *Reminiscences* [*Gedenkschriften*] when rendering them from the original text into classic Dutch (Nederlandsch), the alteration must necessarily have altered the original complexion, style and words of the (D sic)[d]ictator ... The method adopted of publishing in the third person, detracts much from the value and interest of the *Reminiscences* [*Gedenkschriften*]. Nor does this mode of treatment do justice to Mr. Kruger, for it does not represent him in his characteristically robust original type. The result is that we do not know how much of this book is in the actual words of Mr. Kruger, how much in the language of the young scribes who wrote down at his dictation, and how much in the pure idiomatic and classic Dutch (Nederlandsch) of the editor. In fact, the bulk of the *Reminiscences* [*Gedenkschriften*] falls within the last of these three categories, and reads precisely as an attempt by a third person in endeavouring to write history. The tone and touch of the original dictation are entirely absent ... To sum up then, there is a marked difference between the vigorous, resolute and autocratic President Kruger of our personal acquaintance and the humble Mr. Kruger pictured as God's instrument in the preface of these *Reminiscences* [*Gedenkschriften*].⁵¹

A few other historians refer briefly to Kruger's *Gedenkschriften*. D.W. Kruger, for example, gives some information on the way *Gedenkschriften* was compiled.⁵² C. Beyers also uses *Gedenkschriften*, but not very thoroughly.⁵³

50. G.J. Schutte, "Mijn President. Herinneringen van dr. W.J. Leyds aan President S.J.P. Kruger", *Historia*, 13, 1968, p 162 and footnote 7.

51. Kotzé, *Biographical Memoirs and Reminiscences* 1, pp 320–323, footnote.

52. Kruger, *Paul Kruger*, 2, pp 283, 285.

53. C. Beyer, "Laaste Lewensjare en Heengaan van President Kruger", *Argiefjaarboek vir Suid-Afrikaanse Geskiedenis*, 1, 1941, pp 19–65.

Kotzé worked very closely with Kruger for about two decades and apparently made careful notes on his personality and propensities during this period. Although Kruger dismissed Kotzé in early 1898, in the heat of their disagreement on the right of the judges to exercise their testing powers on the constitution, this does not seem to have seriously affected Kotzé's evaluation of Kruger in general.⁵⁴ From his perspective Kotzé tries to deal as fairly as possible in his two-volume *Biographical Memoirs and Reminiscences*⁵⁵ with both Kruger's positive and negative characteristics.

Kotzé was convinced that the "strong traits of his [Kruger's] character, as well as his deficiencies were due to the influence and teaching of the veld".⁵⁶ Elsewhere he says: "His environment and the schooling of the African veld produced in Kruger an essentially typical and striking personality" and "the veld had also made him very observant, and hence his remarkable memory". Another of Kotzé's observations was that Kruger's knowledge of the scriptures was thorough and had furnished him with his rule of conduct. He "reads his Bible intelligently, and in the sacred book he found real instruction".⁵⁷ Also, that Kruger "was rather given to applying biblical illustrations to mundane affairs and often displayed great ingenuity in the practice of this habit, for he was thoroughly at home with his Bible".⁵⁸ Kotzé sums up these observations by saying that "the result was a man of strength, courage, resource, shrewdness, decision, religious feeling, fervid patriotism, ambition and leadership."⁵⁹ He goes on to note:

Not a few of his followers looked upon him as a prophet and a good many more regarded him as the "father of his people". What he said and did was consequently considered by them as always best in the interest of the country. The President thoroughly understood his people and knew how to manage them. His simple life and blunt manner had a great effect on them.

Kruger, writes Kotzé, was also regarded as:

a man of indomitable courage and will. He possessed also a keen sense of humour to which he would give vent in his lighter moments, and enjoyed recounting anecdotes of his experiences. He was an inveterate smoker ... So, in the matter of banking, however much he may have trusted the deposit of state funds in the bank, the President kept no personal banking account, preferring to cash the Treasury draft received in payment of his monthly salary and having the money in his own possession, investing it in land ... he lived a very simple and quiet life, took no regular exercise and kept very early hours, retiring as a rule, at nine o'clock for the night, and ... was up and dressed before the break of the day, when, by the aid of a tallow candle fixed in a brass candlestick, he would read his Bible at a small table in his sitting room.⁶⁰

54. Hiemstra, "Kotzé, Johannes Gysbert", pp 438–441.

55. 1934 and 1949.

56. Kotzé, *Memoirs and Reminiscences*, 2, p 30.

57. Kotzé, *Memoirs and Reminiscences*, 2, p 492.

58. Kotzé, *Memoirs and Reminiscences*, 2, p 126.

59. Kotzé, *Memoirs and Reminiscences*, 1, p 492.

60. Kotzé, *Memoirs and Reminiscences*, 2, pp 30–33.

According to Kotzé, there were other, less admirable sides to Kruger's character as well. He provides two passages to elaborate on this:

He was obstinate and impatient of contradiction, abrupt and at times uncouth in manner, egotistical and selfish, with an eye to his own advantage. He was narrow-minded, and his religion was apt to assume the form of bigotry. Unaccustomed to the ways of the world ... Kruger has been described as an anachronism ...⁶¹

But simple as the President was in habit of life he was not without egotism and had a dictatorial manner, habitually speaking of "my officials", "my burgers", "my country" and even "my Volksraad", "my Judges", etc. And yet, impatient as he was of contradiction, I have known him yield on occasion to reason and judgement. As is almost invariably the case with strong men and leaders, he liked having his own way – a characteristic which intensified with time.⁶²

Although Kotzé appears to have been striving for impartiality in his publication as regards his comments on Kruger, he is clearly biased in certain respects. The fact that his family was friendly with State President T.F. Burgers⁶³ appears to have led him to align himself with Burgers, who was a controversial figure in the history of the Transvaal. In the preface to *Biographical Memoirs and Reminiscences*, volume I, Kotzé states, for example, that "no man of his generation has been so much misunderstood, and at times so maligned, as the late Thomas Francois Burgers" and that the time for the "vindication of Mr Burgers ... has now at last come".⁶⁴ It is also possible that incidents such as the heated dispute between himself and Kruger, which led to Kotzé's dismissal in 1898, could have had a negative influence on his assessment of Kruger in some respects.⁶⁵

Notwithstanding Kotzé's apparent eagerness to consult with fellow judges on legal matters, he also manifested strong prejudices in some instances. It is, for example, clear that he and S.J. du Toit conspired in 1883 against E.J.P. Jorissen, the state secretary at the time, while he was away in Europe.⁶⁶ It is also evident that Kotzé disliked the well-respected W.J. Leyds, later state attorney and state secretary – to the extent that in *Biographical Memoirs and Reminiscences* Kotzé specifically neglects to mention Leyds; his name does not appear at all, in either of the two volumes.⁶⁷ Kotzé also became decidedly hostile towards the chief justice of the Cape, Sir H. de Villiers, who took an opposing point of view in Kotzé's controversial legal clash with Kruger and the Transvaal government. Furthermore, it seems that Kotzé had no qualms about conferring with the British and others who were antagonistic towards the Transvaal.⁶⁸

61. Kotzé, *Memoirs and Reminiscences*, 1, pp 492–493.

62. Kotzé, *Memoirs and Reminiscences*, 2, pp 31–32.

63. Kotzé, *Memoirs and Reminiscences*, 2, pp 31–32.

64. Kotzé, *Biographical Memoirs and Reminiscences*, 1, p iii.

65. Hiemstra, "Kotzé, Johannes Gysbert", pp 438–441.

66. Kruger, *Paul Kruger*, 2, pp 13–17.

67. Marais, *The Fall of Kruger's Republic*, p 16 footnote 3.

68. Marais, *The Fall of Kruger's Republic*, pp 142–145.

Despite differences with Kruger and his eventual dismissal by the ZAR government, Kotzé still maintained, from his perspective, an appreciation for Kruger. His *Biographical Memoirs and Reminiscence* was published many years after his dismissal and Kruger's death and one can assume that he had ample time to consider the nature of his relationship with the former president. It is quite striking that his second wife, Margaretha Jeldina, who outlived him, made the following remark after Kotzé's death:

Often my husband used to recall the early days of duty, the quarrel with President Kruger. There was, however, no ill-feeling whatsoever. He sometimes said: "If the President could come back, but for one minute, I am sure he would, with a warm handshake, say: 'Judge, now I know you were right'".⁶⁹

Kotzé's *Biographical Memoirs* provides the researcher with valuable historical information, especially if Kotze's archival collection is utilised as well. He was meticulous in writing down his observations and the long discussions he had with *inter alia* state President S.J.P. Kruger. He kept copies of his own letters as well as those he received from colleagues, friends and other important individuals. If the researcher takes into account Kotzé's personal biases, his publications and documents can provide valuable information on a variety of important topics.

Abstract

As chief justice of the Zuid-Afrikaansche Republiek (ZAR) referred to in this article as the South African Republic, for approximately twenty years, J.G. Kotzé was in continuous contact with State President S.J.P. Kruger. His is an evaluation of Kruger by an individual from a completely different cultural and educational background. He describes both positive and negative incidents in his relations with Kruger and provides an interesting analysis and appreciation of Kruger's character.

Key Words: S.J.P. Kruger; J.G. Kotzé; T.F. Burgers; appointment of judges; Nellmapius case; Hananwa commando; presidential election; Jameson Raid; judicial dispute.

Opsomming

As hoofregter van die Zuid-Afrikaansche Republiek (ZAR) vir ongeveer twintig jaar was J.G. Kotzé in deurlopende kontak met Staatspresident S.J.P. Kruger in hierdie tydperk. Sy evaluering van Kruger is deur 'n individu van 'n totaal verskillende kulturele en opvoedkundige agtergrond. Hy beskrywe beide positiewe en negatiewe insidente in sy verhouding met Kruger en verskaf 'n interessante ontleding en beoordeling van Kruger se karakter.

69. M. Kotzé, *Truth and Dreams* (The Fortune Press, London, 1962), p 66.

Sleutelwoorde: S.J.P. Kruger; J.G. Kotzé; T.F. Burgers; aanstelling van regters; Nellmapius saak; Hananwa kommando; presidensiele verkiesing; Jameson inval; regs dispuut.