

# **OUR WORST PREFERENCE**

## **Reforming the Electoral System**



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## Chapter Three

### Sailing Under False Colours

*A paper delivered to the Constitution Club  
in Buswell's Hotel, Dublin, 1987*

### 3. Sailing Under False Colours

#### Background

The following paper draws heavily on research into the origins of STV conducted by Michael Holmes under commission from Bertie Ahearn, Ted Nealon and myself in the early eighties. It had been our ambition, as stated in the introduction, to jointly publish a book advocating the reform of the electoral system by jettisoning STV in favour of a real proportional representation system. The book, unfortunately, was stillborn, but this paper serves as a substitute. Many of the themes were later developed in the paper to the Irish Parliamentary (Former Members) Society and to the MacGill Summer School.

#### Introduction

Like all Gaul, this paper is divided into three parts. The first deals with the origins of the Single Transferable Vote (STV) in Ireland and how it became synonymous with Proportional Representation.

The second outlines the various forms of PR in use throughout Europe and the final section will make some proposals for any future constitutional review.

## The British Connection

The Single Transferable Vote is a British electoral system designed to meet their peculiar constitutional requirements regarding parliamentary representation. An ardent supporter of the introduction of PR into Britain has claimed that, "The STV method of proportional representation is a product essentially of mid Victorian liberalism, whose aim it was to extend the bands of individual choice".<sup>1</sup>

A much-neglected Irish critic of STV, but who was both a proponent of PR and a member of the PR Society, James Creed Meredith, explained in 1913 that, "The system is of English manufacturer, having been invented by Mr. Hare and supported by John Stuart Mill, and it is largely on this ground that it is preferred in England".<sup>2</sup>

This viewpoint had originally been expressed in 1907 by John Commons, in his book, "Proportional Representation" in which he said "The STV has become the classical form of PR from the great ability with which it was presented by its author, Mr Thomas Hare, and advocated by John Stuart Mill".<sup>3</sup>

This emphasis on the advocacy of Mill is an important pointer to the special nature of parliamentary representation in Britain. It springs from the tradition of each constituency choosing a local speaker for itself in the House of Commons<sup>4</sup> whereby the member is theoretically presumed to represent all of its electors and not just the victorious faction. The British system has always been suspicious of party and has regarded the individual

legislator as having primary rights over any grouping or fraction. The elector and the elected are presumed to be in direct personal contact without any intervention from outside agencies such as parties.

This theory of representation is grounded in Britain's unique constitutional development and while we may admire the evolution and entrenchment of liberties which the British secured for themselves over the centuries (but not for others) we must not make the mistake of assuming that their experience is universal. It is not. Indeed, the contrary is the case, a point that will become more evident as this paper progresses.

Representation in the British system is based directly on electors and the member represents the whole constituency, not a faction. The Royal Commission on Electoral Systems commended the STV system because it secured "the return of men as men, not as party units, a purpose which it is well calculated to serve."<sup>5</sup> Ernest Naville considered STV a British form of PR because it was "a system which leaves the electors face to face with the candidates without the intervention of lists nominated by parties"<sup>6</sup> and John J. Humphreys in his book on Proportional Representation published in 1911 similarly commended STV because it based "representation upon electors and preserves to them freedom to vote as they pleased".<sup>7</sup>

The Electoral Reform Society in presenting its case in 1982 for the introduction of STV into the UK argued that, "the most important among its attributes is its effectiveness in giving the individual his say in the British system of

Government".<sup>8</sup> This is an attribute which may come as a shock to the Irish supporters of STV but this Englishness of the system has long been recognized within that country as its most prominent feature.

The system was simultaneously, but separately, invented by Thomas Hare and Carl Andrae of Denmark in the 1850s and, indeed, Andrae's system was briefly used in the Danish upper house before being discarded. It has never been used elsewhere on the continent where the choice of electoral system invariably came down in favour of the list form of Proportional Representation and which was introduced by twelve countries over a twenty year period 1899-1920 in the following chronological order: Belgium (1899), Finland (1906), which interestingly was then enjoying a form of Home Rule within the Russian Empire, Sweden (1909), Portugal and Bulgaria (1911), Switzerland (1918), Germany, Italy, Austria and Holland (1919), and Norway and Denmark (1920).<sup>9</sup>

The reason why these twelve countries chose a list form of PR is that, coming relatively late to representative democracy, they already had well organized political parties when their democratic parliaments were established. Parties seemed the natural and logical foundation for the electoral system rather than the individual elector.

This is of profound significance for any future consideration of electoral systems in Ireland because we have incorporated, without any fundamental analysis, a system which, as the Royal Commission noted, "owes its

peculiar merits and defects to the fact that, subordinating as it does the party to the person, is not in its origins a system of PR at all". The Commission went on to describe STV as more a system of "personal representation" or as other authors have called it "preferential representation".<sup>10</sup> Meredith had identified this defining characteristic of the system when he observed that, "the warmest advocates of STV will generally be found to be those who look with strong disfavour on the system of party government".<sup>11</sup> John Commons had gone further when he alleged that, "the Hare system is advocated by those who, in a too doctrinaire fashion, wish to abolish political parties".

In concluding this analysis as to the reasons why the British rejected any form of the list system it is sufficient to restate that "in England, representation has never theoretically been based upon party"<sup>12</sup> and that for them the cardinal defect of the list system is that it would "completely break the link between the M.P. and his/her constituents"<sup>13</sup> and place real power in the hands of party leaders.<sup>14</sup> The truly damning British indictment is that "no list system takes the final selection of candidates entirely out of the hands of the party managers and puts it where it belongs, in the hands of the voters themselves".<sup>15</sup>

Even list systems that allow for the expression of preferences among candidates have been rejected. For example, the Royal Commission dismissed the Belgian system because it "emphasizes and stereotypes party divisions in a way which is incompatible with the more elastic ideas of British politics". The stereotyping of

British parties and the rigid party division which have characterized UK politics since the collapse of the Liberals in the 1920s are the most persuasive proof that ideology is not science and that life itself is the ultimate debunker of even the most pretentious propagandists.

Yet, notwithstanding all experience to the contrary, the two main beneficiaries of the English system are determined to stand out against the list system of PR even to the extent of blocking the introduction of a common electoral system for direct elections to the European Parliament in 1979. Ten of the then twelve member states chose the list system for the European elections, some on a national basis, like France and Germany, with others using regions, like Belgium and Italy. Some allow preferential voting for candidates, like Denmark, while others preclude any alteration to the list. But whatever the variations the fact remains that they are fundamentally using an electoral system based on party rather than individual representation.

Ireland is one of the two exceptions to this otherwise universal rule, an eccentricity that will grow more embarrassing as the Community moves towards greater harmonization of the system used for electing MEPs. The reason is that we were foisted with a British electoral system and the intellectual leap to a continental system has so far proven to be beyond our intellectual capacities. If Keynes could remark that statesmen were too often the prisoners of long defunct economists how much more true is it that we Irish are the prisoners of long defunct constitutional arguments about electoral systems in Britain. The story



as to how we came by STV is too little known and can do with plenty of airing, particularly in the context of a constitutional review.

## Adopted by Default

The Single Transferrable Vote was adopted as our electoral system by default. There were two reasons why it was imposed on the nascent Irish Free State. The first was the political imperative of securing fair representation for minorities, such as the Southern Unionists. That was the general reason. The specific reason was that having decided on PR the only version considered was that which appealed to the English cast of mind, viz STV.

The idea that a form of PR be adopted for Ireland was first suggested to the British Government by the Proportional Representation Society in 1911 as a way out of the impasse created by the Unionist opposition to the Irish Home Rule Bill.<sup>16</sup>

It was also a way of popularizing the STV within Britain which, one suspects, was the real reason for proposing it for Ireland. An amendment to have all elections to the House of Commons carried out under PR was defeated but others were carried which would have introduced PR for constituencies returning three or more candidates to the House of Commons and for all elections to the senate.<sup>17</sup>

At that time, the fundamental political issue for the British Government was the conflict of interests between the

Nationalist and Unionist communities with the resolution of these competing interests the primary preoccupation of British policy makers for the next decade. For this reason, Asquith, the Prime Minister, actually approved of the introduction of PR at some date in order to protect the minority although he interestingly refused to specify the particular form of PR to be adopted, remarking loftily that "I do not commit myself to the minute details".<sup>18</sup>

The Proportional Representational Society, however, mounted an intense lobby through direct approaches to all MPs and "approached the leaders on both sides with a view to securing their support"<sup>19</sup> with the result that "the government adopted the Amendment of the Proportional Representation Society".<sup>20</sup> Proposing the adoption of STV for the Senate, the debate on the amendment dealt exclusively with the pros and cons of proportional systems against majority systems and no distinction between various forms of PR appears to have been made.

It was only in the later debate on introducing STV for the Irish House of Commons that any appreciation between the various PR systems was shown. Sir J.D. Rees argued that STV was more suited to Ireland because it gave the independents a better chance of election, a prophecy which has, alas, proven too true.<sup>21</sup> Sir A. Mond opposed list systems on the grounds that they were based on parties,<sup>22</sup> thus emphasizing once again the British antipathy to parliamentary parties except as a casual arrangement between independently elected members. The whole thrust of the debate, however, was to equate

proportional representation with the single transferable vote, an equation which was to have repercussions down to the present day.

The next episode in the saga occurred five years later when the Royal Commission on Electoral Systems recommended the adoption of STV in Britain partially due to the submission it received from the PR Society.<sup>23</sup> The recommendation was rejected but, as Enid Lakeman has noted, the seven years spent working on the report put the idea of STV into the minds of MPs.<sup>24</sup>

The breakthrough came a year later when STV was introduced for the borough Council elections in Sligo, the first time that it was used in Ireland. It was introduced quite blatantly “as a device to protect minority opinion”.<sup>25</sup>

But the reaction by all sides to the use of STV was favourable. The Sligo Champion said the system had justified its adoption on the grounds that “It is as easy as the old way; it is a big improvement, and it is absolutely fair.” The Unionist Sligo Independent trumpeted, “Sligo has the honour of being the first municipality in Ireland to adopt the principle, and everybody agrees it was a great success”.

In the following year a bill was introduced to provide for Proportional Representation in all local elections in Ireland and during the debate the Attorney General for Ireland (A.W. Samuels K.C.) frankly admitted that, “the Government hoped to blunt the edge of Sinn Féin success in the three Southern provinces, and likewise to secure

Nationalist representation in Ulster".<sup>26</sup> The elections were held in January 1920 and as part of its policy of trying to engineer adequate minority representation, the Government made no funds available to educate voters in the intricacies of the new system but Sinn Féin conducted its own campaign sufficiently well to ensure success.<sup>27</sup>

About this time the Sinn Féin leaders, Arthur Griffith and Eamon De Valera, declared an adherence to the principle of PR from which they never departed. At the Sinn Féin Ard Fheis in July 1919 De Valera, speaking as President of the party, said "Minorities have rights, and if Sinn Féin have all the machinery of government in their power, they would secure the rights of minorities. Every man living in this Ireland is of equal value in it, and every man and woman would get the share to which he or she is entitled. Whether PR benefited us or not, I would be in favour of the principle, because it is justice".

By this time the momentum in favour of using PR in Ireland was unstoppable but so too was the equation between PR and the STV arising from British prejudice against the list system and Irish ignorance of alternate forms of PR. Thus, when the Government of Ireland Bills were debated in the British House of Commons STV became the chosen electoral system virtually without a contest. The subsequent elections in May 1921 to the two Irish Houses of Commons were held under STV, although the members of the Southern House were returned unopposed.

When it came, therefore, to devising an electoral

system for the Irish Free State the situation was one of *fait accompli*. As has been mentioned, Arthur Griffith, who had been a founding member of the PR Society of Ireland, was one of the system's leading advocates, with the equation again being made that the STV was PR in toto. Griffith promised the adoption of PR in order to secure representation for Southern Unionists<sup>28</sup> and the indications are that the guarantee was accepted without question.

More than that, Griffith's word seems to have been so binding that, as far as research can discover so far, the Constitutional Committee set up to draft the Free State Constitution appears not to have discussed the electoral system at all. In his essay on *The Drafting of the Irish Free State Constitution*, Brian Farrell<sup>29</sup> simply states that "all approved" of the PR electoral system. It was probably outside the frame of reference for the Committee, a conclusion arrived at by analogy since the issue of a Second Chamber was immediately pulled out of discussion on the grounds that Griffith had assured Southern Unionists that there would be an upper house.<sup>30</sup> Presumably, therefore, the adoption of PR was taken as a *sine qua non* for the new constitution.

It is, nonetheless, noteworthy that the Free State Constitution did not prescribe STV as the electoral system to be used but simply stated that TDs be elected according to the principle of PR, leaving the details of the electoral system to ordinary law.<sup>31</sup> This sophistication of approach and its manifest confidence in the good sense of the legislature contrasts starkly with the pedantic exactness of

the 1937 Constitution. That sophistication was, however, not yet present when the Fourth Dáil came to discuss the legislation establishing the electoral system. Deputies showed no comprehension of any form of PR other than STV and their “speeches revealed a complete ignorance of the list systems”.<sup>32</sup>

It was plain, records Cornelius O’Leary,<sup>33</sup> that the constitutional directive, “The Principles of Proportional Representation,” was going to be interpreted to mean the single transferrable vote, the only form of PR of which the Irish had any experience”.

It is not unfair to conclude that STV came to Ireland by a combination of chance occurrences, ignorance of alternative methods of election, indifference by Irish leaders as to the mechanics of electoral systems and their collective lack of comprehension of the competing principles of parliamentary representation as expressed in England and the Continent.

As a result, Ireland found itself with a system of election originally intended for a country with a totally different parliamentary tradition and constitution. It is a major irony of history that in securing our national independence we finished up passively accepting without examination “the only peculiarly British brand of PR”.<sup>34</sup>

“Need this peculiarity of the English mind count for much in Ireland?” asked Meredith in 1913.<sup>35</sup> Unfortunately it has. And it still does.

## Voting Systems in Europe

Within the European Community eight of the twelve Member States use the list system of Proportional Representation in some form or another. The three Scandinavian countries outside the Community all use a variation of the list system, as do Austria and Switzerland. So, of the seventeen democracies in Western Europe, thirteen use the list system of PR.<sup>36</sup>

### Germany

Of the exceptions to the classic form of list PR perhaps Germany is the most interesting. The German electoral system is a unique combination of the British 'first-past-the-post' method of election, which applies to one half of the Bundestag, and a conventional list system, which applies to the other half. The ultimate objective of the system is to give each party a percentage share of the Bundestag seats equivalent to its national vote, provided the party receives more than 5% of the national vote.

In essence, the German system is a combination of single member constituencies with simple majority voting, as in the UK, plus multimember constituencies with PR. This has often been called the 'additional vote' system because the individual voter has two separate votes to cast. The first is for a candidate in a single member constituency just as in a British election. But the second is for a party list presented within a Land and it is the percentage of these

votes over the whole country, which determines the overall number of seats to be won by a party in the Bundestag.

So, the overall system works out simply enough. The votes for the party list determine the total number of seats in parliament. The seats won in the constituencies are aggregated and subtracted from this number and the balance is drawn from the list. If a party wins more seats in the constituencies than it is entitled to by its nation-wide proportion then it is permitted to keep the surplus.

As mentioned, a party must gain either 5% of the total vote in the whole country or three of the constituency seats. It is possible for a party to win no seats whatever in the single member constituencies and yet be awarded seats in the Bundestag if its national vote on the list system exceeds 5%. This, in fact, is what has generally happened with the Liberal Party, the FDP, which is the party around which German Governments now pivot. Without them the German political system would have degenerated into a straightforward two party system. But without the electoral system, there would be no Liberals.

It is salutary to remember that the FDP has seldom won seats in a single member constituency yet it constantly provides key Governmental Ministers, such as Foreign Minister Genscher in a coalition of the Centre Left with the SPD or of the Centre Right with the CDU/CSU. The Liberals literally make or break Governments, as they demonstrated when they walked out of Helmut Schmidt's coalition and took up instead with Kohl who has been Chancellor ever



since. An electoral system conferring much power in a tiny faction would be denounced out of hand in Ireland and dismissed as undemocratic. It would be condemned with even greater vehemence in the UK but it is ironic to recall that it was within the British occupied zone of Germany that a combination of the Weimar Republic list system and the first-past-the-post system was first used in the local elections of 1945 and then used on a country wide basis.<sup>37</sup>

The way in which German elections normally work out is that the Christian Democrats win about two thirds of the constituency seats, the Social Democrats the remaining one third, with no seats at all for either the Liberals or the Greens. In fact the Greens have not won in a constituency as yet and all their members come from the list.

The combination of the two systems leads to highly intelligent tactical voting by the various party supporters. For example, conservative voters often give their first vote to the Liberals in order to ensure their coalition partners' presence in the Bundestag. Likewise, Green supporters often vote SPD on the first ballot since they know it would otherwise be a wasted vote. The sophistication of voting refutes any criticisms of the system on the ground that it is inflexible. On the contrary, it is subtly flexible.

Because of its proportionality effect and the actual use of a Party list, it is permissible to include Germany amongst the countries using the list system. That would raise the number to nine of the twelve European Community Member States using the list system.

## France

Contrary to popular belief, France has never at any time elected her parliament by proportional system except in 1945, 1946 and 1986. The system which has been predominantly used, and is now the electoral law once more, is that of the second ballot. Basically the principle employed here is that no matter how many candidates may be nominated for a single seat the successful one must have a majority over all the other candidates combined.<sup>38</sup> This method has been tried in many European countries but was abandoned everywhere except in France.

Election is by absolute majority in two ballots within a single member constituency. To be elected in the first ballot, a candidate must obtain an absolute majority and at least one quarter of the valid votes cast by registered electors. In the second ballot, which takes place one week later, a relative majority is sufficient. Only candidates polling at least 10% of the valid votes cast in the first ballot may take part in the second one. Should, however, only one candidate fulfil this condition, then the candidate with the second highest number of votes is admitted to the second ballot. If no candidate fulfils the conditions, then the second ballot takes place between the two candidates polling the most votes in the first round.<sup>39</sup>

The French system gives rise to the possibility and, indeed, the necessity, of tactical voting in the second round.

Parties may enter into agreements that they will support the highest among them in the first round as their

joint candidate in the second or they may work out some other more elaborate carve-up in order to secure some equity in the seats to be won. The Union de la Gauche between the Socialists and the Communists, which brought Mitterrand to power in 1981, is an example of such tactics and can be regarded as analogous to lower preference voting within STV.

## The List System

Of the countries remaining in the European Community, all use the list system and they can be analysed separately in terms of voter choice amongst the candidates on the list and the method of allocating seats.

As regards voter choice in Italy, the voter votes for a list and may, but need not, alter the numbering of the candidates.

Likewise in Belgium, the voter may alter the list. But in the Netherlands, as in Finland, the voter numbers one of the candidates within a party list. Any candidate whose personal votes exceed the quota is elected and any surplus votes are transferred to other candidates in the order in which they stand in the party list. In Denmark the voter also has a choice between voting a party list as it stands and marking one candidate on it.

The Danish system is complicated because in each polling district the candidate nominated for that district appears first on that list. A candidate receives two types

of votes i.e. all the personal votes plus the list votes in the district where they head the list. Candidates with the most votes fill the seats allocated to their party. As a further complication, a party may place all its candidates in a constituency on an equal footing, in which case their election depends solely on personal votes.

As may be expected, however, the number of voters exercising a personal choice within a predetermined list is very small so the parties effectively determine the order in which the candidates are chosen. Both Sweden and Austria allow the voter to cross out names on a list but this has effect only if done by more than half of the party's supporters, which in practice rarely happens.<sup>40</sup> Where the elector cannot vote without marking an individual candidate, as in the Netherlands (and also in Finland and Switzerland), differences in personal support for candidates come out strongly.<sup>40</sup> For the purpose of completeness it should be noted that the Norwegians simply vote for a party list.

In summary, it can be concluded that the list system usually provides an elector with the theoretical right to alter the order in which candidates are to be elected – it being understood, of course, that candidates are elected in descending order as they appear on the list. Denmark and the Netherlands provide for individual choice (as do Finland and Switzerland) but whatever the degree of personal choice the vote is essentially locked into a party and cannot escape unlike the STV system where cross party voting is endemic.

The reason is, of course, that the STV system is not based on parties but on individuals and the list system is not based on individuals but on parties.

## Vote Counting Methods

The European Parliament published a helpful research paper in 1988 entitled 'Electoral Laws of Parliaments of the Member States of the European Communities' from which the following material is drawn.

Vote counting methods can be divided into two main types: the quota method and the largest average method. The basic difference between them is not so much the method of calculation as in the result. In their commonest forms, quota methods do not usually result in the allocation of all the seats and those left over have to be allocated by means of another method of calculation. Divisor methods, on the other hand, invariably permit the allocation of all seats.

The quota method, as we in Ireland know, is based on the principle that a seat is allocated for a given number of votes and is obtained by dividing the valid number of votes cast by the number of seats to be allocated or that number plus one, two or three etc. The commonest, as in Ireland, is the number of seats plus one.

In the largest average method, the number of votes obtained by the parties is divided by a series of numbers and the seats are allocated according to the size of the resulting quotients. The commonest system is the d'Hondt

method whereby the votes are divided by a series: 1-2-3-4

Belgium uses the d'Hondt method. Where all the seats cannot be distributed directly in the constituency, the remainder is distributed at province level among all groups of lists which have obtained at least 66% of the elector divisor in a constituency. Seats are usually allocated to candidates on the lists according to the order in which they are entered.

In Italy, on the other hand, the number of votes cast is divided by the number of seats plus two and each list is allocated as many seats as it has complete quotas. Within the lists, seats are awarded on the basis of the preference votes, although these will probably not distort the original order. Seats which are not filled in the constituencies are distributed proportionally at national level but only to parties polling at least 300,000 votes in the whole country.

The Netherlands uses a quota system by calculating a national quota and seats not allocated by this method are distributed by the rule of the largest average. Within the lists the seats are then subdivided to individuals using quotas yet again.

In Denmark, the seats are shared among the parties in proportion to their totals and personal votes using a modification of the d'Hondt rule. Forty supplementary seats are allocated to make the results as proportional as possible.

This system is also used in Sweden where voting takes place on regional lists. Stockholm, for example, is a

region with its own lists. The forty supplementary seats are allocated to the parties that have either won seats in a region or secured more than 4% of the national vote. The net result is that parliamentary representation is proportional to a party's national vote.

## Recommendations

This analysis could be extended but it would become too complex in terms of detail. Suffice it to say that the Continental norm is a list system in which parties receive a share of the seats proportional to their vote and in which candidates are elected in the order of preference as determined by the parties and not by the electors. This has an inevitable consequence for both the quality of the parliamentary members and the style of parliamentary politics, consequences from which we might benefit.

That is another issue for another day. For the moment it remains to be recommended that our constitution should specify PR as the electoral system without indicating which form of PR is to be used and leaving it to the Oireachtas to decide on the system to be employed, as under the 1922 Constitution. That would give us the flexibility to, perhaps, use the German system for the Dáil, STV for the Senate and the list system for the European Elections.

If the Senate were to be genuinely based on social and economic interests other than parties then the STV system would be an appropriate method of election. Indeed, it would be ideal.

As for the European Parliament elections, STV has turned out to be an absurd method of election for the simple reason that the constituencies are too big. The problem will become accentuated as the number of Irish MEPs falls due to future enlargement of the Community.

I proposed, as Party Secretary, in 1974 that the Bill providing for direct elections to the European Parliament, which first took place in 1979, should stipulate a national list system.

Unfortunately, the responsible Minister, Jimmy Tully of my own party, and other Ministers generally, were simply not interested. A great opportunity was lost to familiarize the electorate with the workings of the list system and, incidentally, to return members better attuned to the style of the European Parliament.

It is not too late to remedy that lamentable mistake. It can be done by legislation and does not require a referendum. It is an intriguing thought for those bent on reform. It would be beneficial in its own right and might start the process of more fundamental reform.

## Conclusion

The electoral system is the spine of the political system. It determines the quality of the parliamentarians elected to represent the nation and, in turn, the quality of the government they elect to manage our collective affairs as a people.



It is deeply regrettable, and profoundly disquieting, that it has not been subjected to forensic examination on the basis of what is best for a parliamentary democracy. It should be.

Electoral reform suffers from the handicap that it is neither a popular nor a populist subject for public debate and will prove difficult to move it up the political agenda. But those concerned for the future of their country should try to put it at the head of the constitutional reform agenda. Failing to reform the electoral system may otherwise prove fatal for politics itself.

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## Chapter 4. A Word to the Wise

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