

RALUT REPORTER

RETIRED ACADEMICS AND LIBRARIANS OF THE UNIVERSITY OF TORONTO

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Could We Lose Our Rights to the Pension Surplus? What Does Queen's Park Have in Mind?

On July 18 of this year the Ontario Ministry of Finance put on their web site an invitation to the public to make submissions concerning some proposals on "Surplus Distribution from Defined Benefit Pension Plans." At an informal meeting of RALUT and UTFA people the feeling was that this portends great danger to any possible future distribution of surplus money in our pension plan. This issue of the *Reporter* has several perspectives on the problem—The President's Letter (p. 1), A letter from UTFA VP Luste (p.6), The Pension Committee Report (p. 5) and a summary of the Ministry document (p. 3). Here, I want to discuss the politics.

This call for submissions was released during a high vacation period, not just for academics. There was somewhere between little and no publicity given to it. You may recall, though, that every household in Ontario was supposed to receive the questionnaire about health care. We don't know if the University received notice, but UTFA did not and we would not have expected that our newly formed RALUT would. Replies are due in mid-September.

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Why only two months notice, in mid-summer, with so little publicity? Could it be to insure that only chosen recipients would find it? And who would these be? The employers? There is the smell of some unpleasant politics here.

This is serious business. If the Government proposals are accepted it will become extremely difficult for us ever to get any of that surplus. The University could continue on a pension holiday while working staff continue to contribute to the plan. Then, if there is still a surplus, employees or former employees might not share in it!

I urge you to read the summary or full document and to respond to the Parliamentary Assistant to the Minister or Mike Harris (addresses on p. 2) and to your own

MPP. There isn't much time. Let your voice be heard.

Also – if you have any ideas about what should be said in RALUT's response to the Ministry, write to Peter Russell. e-mail: phruss@aol.com, postal mail address on p. 7.

Charles T. Meadow, Editor

President's Letter

Dear Colleagues,

As a new academic year begins, RALUT faces a busy agenda. During the summer, Vice-President Germaine Warkentin and I had an encouraging meeting with the new Vice-President for Human Resources, Professor Angela Hildyard. We canvassed a number of ways in which the University might strengthen its links with retired faculty and librarians. Though Professor Hildyard has just taken over her portfolio, she was very positive about working with RALUT to establish a more "alumni-type" relationship with all U of T retirees. This could include drawing more systematically on the graduate teaching and research skills of our membership. We look forward to hearing from Professor Hildyard in the fall.

General Meeting – Oct. 29. Read about it on p. 4

George Luste, UTFA's new Vice-President for Salaries, Benefits and Pensions, is still awaiting some response from the University administration to the idea of a more open fact-finding inquiry into the pension situation at the U of T - outside of the normal negotiating process. In the meantime we retirees are faced with a provincial government initiative to amend the surplus distribution rules in the Pension Benefits Act and Regulation 909.

Our editor, Charles Meadow, draws attention to the employer-oriented context of these proposals. The proposals appear designed to make it easier for employers to withdraw funds from a surplus in a defined-benefit pension fund. But the discussion paper put out by the Ministry of Finance asks whether employees should be able to initiate a distribution of pension surplus. I think RALUT should answer this question with an emphatic "yes". Such an amendment could become a vehicle for overcoming the University administration's reluctance to reduce the surplus and end its pension holiday.

The proposal which I find most objectionable is one which would require that two-thirds of active members must consent to a proposal to distribute a pension surplus but leave the amount of consent required from retirees to the unfettered discretion of the Superintendent of Financial Services. No reason is advanced (and I can think of none that makes any sense) for this discriminatory proposal. If such a discriminatory provision were enacted, I believe there is a very good chance that it would be found to be unconstitutional age-

based discrimination under the Charter of Rights.

One other question in the discussion paper that RALUT should answer in the affirmative is whether, in the case of a cash distribution of pension surplus, the legislation should require "a reasonable balance" between active members and retirees. A more difficult question for RALUT is whether cash pay-outs of surplus should be apportioned according to the pension liabilities associated with beneficiaries. This is an issue on which RALUT has not developed a position.

Unfortunately the deadline for responses to the discussion paper is September 14. (Possibly to be extended to Sept 29 - ed.) This does not give us - or any other organization - sufficient time to consult our membership on all the issues. Under these circumstances, I think all RALUT can do is make a submission on a few points that your Executive Committee considers clearly represent the interests of our members. In doing this we will keep in close touch with UTFA which will also be making a submission.

Sometime in September some of us will be sitting down with UTFA to begin the process of constitutional restructuring which, among other things, is to strengthen the representation of retirees within UTFA. Most of the university retiree associations I have been in touch with are not connected to faculty associations. But virtually all of these are at universities where questions of inadequate pensions and pension surplus are not burning issues. Among those in situations more analogous to our own, I find arrangements recently adopted at the

University of Windsor the most interesting for us to consider. Under the WU model, members of the WU Retirees Association are Associate Members of the WU Faculty Association, are directly represented on its Executive and have an effective role on the Faculty Association's Pensions and Benefits Committee on issues directly concerned with retirees' interests. I would very much like to hear from any of you who have views on restructuring retiree participation in UTFA or are interested in taking part in the restructuring process.

Over the summer a change took place in the composition of the Executive Committee. John Cairns resigned from the Executive to become RALUT's Archivist. John has already begun gathering together material about the events that led to RALUT's founding. We are very grateful to John for his participation in the work of the Executive, especially his conscientious taking of minutes at our meetings. To replace John, a Nominating Committee consisting of Germaine Warkentin (chair), John Gittins and George Milbrandt brought forward the name of Professor Ken Rea. Ken has done a sterling job setting up our web-site which I hope many of you are now using. The Executive happily accepted the nomination and appointed Ken to the Executive.

Our next Members Meeting will take place on Monday, October 29 at Victoria College. Details about the meeting are given elsewhere in this issue of the Reporter. I hope that as many of you as possible will come to this meeting. There will be a pleasant social side to the meeting and a chance to renew friendships and to talk infor-

mally about things we might do together on the future. So do try to attend.

Peter H. Russell, President

Problems with some members' e-mail addresses

Our membership database has some invalid e-mail address. Please see the item on page 4 to see if you're on the list.

Summary of the Finance Ministry's Pension Surplus Proposals

(This summary is a part of the full document to be found at www.gov.on.ca/FIN/english/pensione01/pdf.)

Full Plan Wind Up

- Amend the PBA (Pension Benefits Act) to allow an employer to apply to the Superintendent to withdraw surplus if it is able to secure the requisite level of consent of plan members and former members, even if the pension plan documents do not expressly entitle the employer to surplus.
- If an employer is clearly entitled to surplus on the basis of plan documents, the employer would be able to withdraw it with the approval of the Superintendent but without the consent of members and former members.
- In either case, the employer would be required to notify plan members and former members of the intent to withdraw surplus.

Partial Plan Wind Up

- Amend the PBA to permit, but not require, an employer to withdraw a share of surplus in proportion to the actuarial liabilities associated with the affected members on partial wind up, if it is able to secure the requisite consent of the affected members, even if the pension plan documents do not expressly entitle the employer to surplus. Specific provisions requiring the distribution of surplus on partial wind up in plan documents would not be affected.

- Amend the PBA to provide that a surplus distribution on partial wind up would extinguish the rights of the affected members to participate in any future surplus distribution. In cases where surplus is not distributed on partial wind up, affected members would have the right to consent to a future surplus distribution.

Surplus Withdrawals from Continuing Plans

- Amend the PBA to permit employers to withdraw surplus in the same manner as permitted from plans on wind up, except that the employer would be required to leave a contingency reserve in the pension plan. The assets retained in the plan must be at least equal to the greater of:
 - assets at market value equal to 115 percent of the plan's wind up liabilities; or
 - assets on a going concern valuation basis equal to going concern actuarial liabilities plus 200 percent of the employer's share of normal cost.

- Remove the restrictions in section 10 of the Regulation on the types of benefits which must be provided on the withdrawal of surplus.

Contribution Holidays

Amend the PBA to provide that contribution holidays are permitted if the plan has a surplus unless the plan documents expressly state otherwise.

Consent for Withdrawals

- Amend the PBA to require the consent of the collective bargaining agent of plan members or, if there is no collective bargaining agent, from at least two-thirds of plan members for all surplus withdrawals (including full wind ups, partial wind ups, and from continuing plans).
- Also require the consent of former members of the plan (i.e. pensioners and persons entitled to a deferred pension) and other persons (i.e. spouses or other dependents) entitled to payments from the pension fund in such levels as the Superintendent considers appropriate.

Dispute Resolution

- Amend the PBA to allow an employer to bring a surplus distribution matter to arbitration when the level of consent to a surplus sharing agreement is less than the level of consent required for an agreement but greater than 50 percent of those members and former members who voted.

Mandatory Surplus Distribution on Full Wind Up

- Amend the PBA to provide that, if surplus remains undistributed in a pension plan after a prescribed period of time following full wind up, the Superintendent may issue an order for the final settlement of all remaining plan assets.

Surplus Attribution to Employer/Member Contributions

- Remove all references to the concept of surplus attribution to particular contributions in the PBA and Regulation.

Interested parties are invited to make written submissions by September 14, 2001 to:

John R. O'Toole, MPP
Parliamentary Assistant to the
Minister of Finance
Ontario Ministry of Finance
7 Queens Park Crescent, 7th Floor
Toronto, Ontario M7A 1Y7

Write right to the top:

Hon. Michael D. Harris
Premier of Ontario
Room 281, Legislative Building
Queen's Park
Toronto ON M7A 1A1

October 29 Meeting: a Time to Talk about RALUT

RALUT will hold its Fall Members' Meeting on Monday, October 29 from 3.00 pm to about 4.30, with a get-acquainted reception to follow. Meeting and reception will both be held in Alumni Hall at

Victoria College (*See below for how to get there).

What's on the agenda? Well, we think its a good time for some discussion of the issues currently before U. of T. retirees. At the time of publication we see these as the following (though of course anything can happen in the interval):

1) The restructuring of the retirees' role in UTFA. We have helped persuade UTFA to engage in a constitutional review, and members of RALUT will be working on proposals with UTFA Council members by early September. We hope to bring those proposals to the meeting for your consideration.

2) The Government of Ontario has produced a discussion paper embodying possible changes in the legislation for the distribution of pension surpluses. RALUT will be presenting a submission by the mid-September deadline, but we would like to hear your views on what the government has in mind. You can check out details of the discussion paper on our web site: <http://www.ralut.ca>

3) Everyone will want to learn about UTFA's progress, under George Luste's leadership, on pension matters, and particularly in getting pension issues separated from salary and benefit negotiations.

4) During the Congress of the Social Sciences and Humanities next May, to be held in Toronto, RALUT will be hosting a one-day conference of university retirees' organizations from across Canada. We hope to get as many as possible of our own members involved in this exceptional opportunity to meet and confer with other retirees who share our interests. This will

be one of our big projects for the coming year.

5) An amendment to the RALUT constitution will be proposed, to make retired administrators ("senior staff") eligible for membership; a number of them have expressed great interest in RALUT and its objectives.

We're planning a meeting of about an hour and a half, to be followed by what we hope will become an annual Autumn custom, a reception for members (food by RALUT, plus a cash bar).

Plan to be with us on October 29: meeting at 3:00, reception at about 4:30. We hope to greet as many members as possible. And if you know anyone who might like to join, bring them along!

Germaine Warkentin, Vice President

*Alumni Hall is on the first floor of the big old brownstone main building of Victoria College; our webmaster, Ken Rea, has posted a picture of the building on our home page, and there is a button to click on with instructions and a link to a map. For those not on the web: Victoria College is situated in the area to the south-east of the intersection of Charles St. W. and Queen's Park. You can reach it easily from the Museum subway stop on the Yonge/University line, as well as the Bay stop on the Bloor line, which is a little bit farther away. There are entrances on the east, south and west sides of the building, and a wheelchair entrance tucked in at the south-east corner, with elevator access to the main floor. Parking (for a price) is available in the area.

We Need Information about Member E-mail Addresses

In a recent attempt to send an e-mail message to all members for whom we had addresses (or thought we did), copies to the following members were returned, generally with the notation that addressee was not known. If you did not get our message concerning the availability of our web site, please let us know the address. We're at: ral.ut@utoronto.ca

Would the following members please contact us with a correct e-mail address. We apologize for any misspelled names; please correct them, too. In some cases the errors seem rather obvious transcription errors but we would rather you corrected them.

Here are the names of those for whom mail was rejected:

Bondrup-Nielsen, K.
Carstens, Peter
Chambers, Douglas D. C.
Cockshutt, Margaret
Elmer, Lawrence
Farber, Emmanuel
French, J. Barry
Gerson, Jack
Harrison, Alexander G.
Hawthorn, Margaret
Land, Brian
McCallum, Hugh R.
Matuk, Yousef
Maury, Nicole
Miller, Anthony B.
Moes, Peter C.
Morgan, Peter F.
Packham, Marian
Poapst, James V.
Rakoff, Vivian
Sawyer, John A.
Schlesinger, Ben
Timusk, John:
Wrigley, Frederic R. H.

Looking for Thesis Advisors

The Toronto Art Therapy Institute, (a non-profit organization governed by a board of Directors), is the oldest training program in Canada for Art Therapists. It is a two-year program for candidates who have completed a B.A. Students in our program are required to complete a graduate-level thesis in their final year of the program. If there are individuals who are interested in acting as thesis advisors for these students, please get in touch with our office. A background in clinical psychology, counseling, human development, or social work would be helpful, as is interest in art, symbolism, or human communication. There is a stipend provided. For further information, please contact, Gilda Grossman at 416-923-3219.

Pension Committee Report

Our Pension Surplus Is in Peril

Just when we thought we could sit back and enjoy the fruits of our efforts, another threat to our hopes has arisen – a very serious threat. Having passed those two important motions – because of the number of us in attendance — at the UTFA General Meeting, and then capping that triumph with the election of George Luste of our Executive Committee to the post of UTFA Vice President for Sala-

ries, Benefits and Pensions, we thought we could look forward to a year of strenuous effort which would be capped by the achievement of our objectives.

And now?

And now the Government of Ontario has quietly distributed copies of “A Consultation Paper” called Surplus Distribution from Defined Benefit Pension Plans.

Dated July 18 and coming from the Ministry of Finance, the Paper claims to be interested in bringing “clarity” to “existing surplus distribution provisions” and “certainty with respect to surplus entitlement.”

The introduction ends by stating that the “discussion (What discussion? – HK) set out in this paper provides a possible direction for reform.” But it is more reasonable for us to see it as evidence that the Government of Ontario intends to change the existing legislation. This is clear enough from a statement early in the Introduction that “Recent court decisions have limited the ability of the pension regulator, the Financial Services Commission of Ontario (FSCO) (formerly the Pension Commission of Ontario or PCO) to approve surplus applications by employers on wind up....”

In the Background section, it becomes clear that the Government – or its backers – are unhappy with recent court decisions in which, almost always, the decision has gone against the employer. Hence the proposal to make it easier for employers to dip into surpluses in DB plans.

From our point of view, what is most worrisome about the Proposals made in the Paper is that, throughout it, you and I are talked about as “former members of a

plan” and distinguished from those currently making contributions, who are “members” of a DB plan. This language is obviously designed to facilitate what I believe to be one of the more nefarious ideas in the Paper. Under Related Issues, on page 13 of the Paper, we find the proposal to “require the consent of former members of the plan (i.e., pensioners and persons entitled to a deferred pension) and other persons (i.e. spouses or other dependents) entitled to payments from the pension fund in such levels as the Superintendent considers appropriate.”

Earlier, under Surplus Distribution on Plan Wind Up, we find the Proposal to “Amend the PBA to allow an employer to apply to the Superintendent to withdraw surplus if it is able to secure the requisite level of consent of plan members and former members, even if the pension plan documents do not expressly entitle the employer to surplus.” For “members” – though there is some fudging here, with the Superintendent being given the ultimate authority to make decisions – 2/3 need to consent to the employer raiding the surplus. For “former members” – us -- it is entirely up to the Superintendent to decide how much weight to give to our opinions!

Given that the final Proposal, on page 17, is to “Remove all references to the concept of surplus attribution to particular contributions in the PBA and Regulation”, the Government clearly wishes to make illegal any argument that there should be some common-sense relationship between the amount you and I have contributed to the pension plan to bring about the surplus and our entitlements from that surplus.

Do not misunderstand. The Paper is not aimed directly at us. It is a broad-spectrum approach to DB pension plans with surpluses – and that is another of the problems with the Proposals: they make no distinction between plans in industry, where the employer is out to make profit, and plans in, say, universities, where, as we know from Michael Finlayson’s 1987 UTFA Newsletter, pension monies are deferred salary. (The writers of the Paper do have such a thing in mind, however: they refer on page 1 to the fact that “Others see contributions to pension plans as deferred compensation.” But this comes only after a paragraph stating that one view is that since “employers generally bear the risk of defined benefit pension plans becoming underfunded . . . they alone should be entitled to the benefit of any surplus.”)

I have quoted so lavishly from the Government’s Paper to let you see what is going on in it and what the Government seems to be about. We thought, after George’s election, that we could settle down to helping him to negotiate a proper percentage of the massive surplus in the U of T pension plan, on our behalf. We can now see that it may become necessary to prevent the University from – à la Conrad Black – dipping for its own purposes into the surplus that our contributions have built up. A total reversal of emphasis.

The matter is very grave. Put simply, we cannot allow ourselves to believe that a U of T administration which, on the one hand, was apparently willing at the recent failed negotiations with UTFA to spend \$25 million to make the SRA more lucrative for high earners but on the other hand only \$2.5

million (their estimate) on a one-time-only payment to certain retirees, will not stride boldly through the door the Government intends to open for it.

As always with this Government, not only has there been little publicity given to the proposed new legislation, but there is a very limited time for responding to this paper. If you need a copy of the Paper, go to RALUT’s website, or www.gov.on.ca/FIN, or to the Government Bookstore at 880 Bay Street, Toronto.

RALUT’s Pension Committee has formulated a response, which it will be sending on, once it has been ratified by a meeting of the Executive Committee. Your suggestions to President Russell are solicited. In any case, YOU should write to your MPP of your deep concern about the matter. See the address on page 4.

Let’s not leave our fortunes in such an important matter to the goodwill of the University of Toronto administration.

Harvey Kerpneck, Chair, Pension Committee

* Letter from UTFA’s VP

Dear Retired Colleagues,

UTFA Council has elected me to be the incoming Vice-President for Salaries, Benefits and Pensions to represent the interests of both the Active and the Retired members of our community. My position statement before the election clearly noted that I would endeavour to work cooperatively with RALUT and that I was on the side of fairness and equity in pension matters for the Retirees. This

I shall try to implement in the forthcoming negotiations with the Administration. This is what UTFA Council's vote mandates me to try and achieve. But I can do very little on my own without your support. We will need your help and I hope that will be forthcoming.

There are two major obstacles on the pension front. They both bear on the very large pension surplus inside the U of T Defined Benefit (DB) Pension Plan. One obstacle is the University of Toronto Administration and its reluctance to "normalize" its pension benefit contributions (i.e. make contributions at a level consistent with other major universities). The other obstacle is Queen's Park and the threat of new provincial legislation that could further tilt the pension surplus landscape in favour of the employer.

First a few words on the Queen's Park issue. This is discussed in more detail elsewhere in the Reporter and the Ministry of Finance discussion paper is available at the www.ralut.ca web site. No doubt almost all employers in Ontario, with DB pensions plans in a surplus position will lobby hard for their "right" to access the surplus. The current pension legislation in Ontario (which came about after Conrad Black tried to hijack the surplus in the Dominion Stores pension plan) makes it difficult for the employer to access the surplus inside the plan. It also does not allow for the employees to initiate the surplus disbursement in an ongoing plan. Thus any disbursement requires agreement from both sides.

Please write to Queen's Park on this issue. Send a copy to your MPP. (And a copy to UTFA.) It

may help if you start your letter along the lines of "I am a Retiree and I object to any proposed legislation which will reduce my rights to the pension surplus inside my DB pension plan." My view is that one should highlight the "Retiree" word. (The PCs may take more notice of that constituency rather than the university when it comes to election support.) Please write.

Now some comments on the Administration and the forthcoming negotiations. Judging from the recent negotiations that failed and the letter you received from Michael Finlayson in the aftermath, the U of T Administration's position seems to be that it is not prepared to jeopardize the pension contribution holidays it has enjoyed over the past 14 years. The cumulative value of those holidays in today's dollars exceeds \$800,000,000. But it wants more. It wants to use the additional \$500,000,000 (as of the last published actuarial report) surplus inside the pension plan for its benefit as well.

Yet the University Administration does seem interested in going to a new Defined Contribution pension plan. All the major universities in North America (excluding U of T) have one. I suspect there is pressure from the younger new hires on this. In addition they want to raise the maximum salary ceiling above \$150,000 for pension benefits in the SRA (the Supplemental Retirement Agreement) for the high rollers. To implement either they will need UTFA's consent.

How does one negotiate this? And at the same time not compromise the retirees pension benefits vis-a-vis a salary increase for the active people? My view is we must

decouple the retirement issues from the salary issues by having a separate negotiations for the two. They have different constituencies and they should have different representatives at the table. I believe retirees must be present when the disposition of the pension surplus is discussed. At the moment these are only my views, not UTFA's official position. I am hopeful that I will persuade the Salaries, Benefits & Pensions Committee and later UTFA Council to support such a position as well. Time will tell.

Please feel free to contact me on these or any other matters. (luste@utfa.utoronto.ca) or c/o UTFA, 720 Spadina Ave., Suite 419, Toronto ON M5S 2T9 or 416-978-4676)

George Luste
Vice President, Salary, Benefits and Pensions
U of T Faculty Association

Help Wanted – by RALUT

We are forming a new committee – on benefits – to be chaired by John Hastings. We need others to serve, and work on issues connected with medical benefits, parking, continued research and teaching, office space and relations with the University in general. If interested contact John at jhastings@utoronto.ca or the RALUT mail address.

Book Review

The Sun Still Shone: Professors Talk About Retirement

Lorraine T. Dorfman
University of Iowa Press
Iowa City, 1997

Robarts call number: LB 2334 D67
1997X

Reviewed by *Ken Rea*

When Lorraine Dorfman was a new Ph.D. graduate in the early 1970s she found herself wondering what happens to academics when they retire ... does it all just end? She subsequently spent more than a decade studying the topic, producing a number of the grouped-data quantitative studies popular with American specialists in the field, but in this book she presents something different, a qualitative overview of the retirement experience of academics.

Based on more than 400 interviews with university and college faculty conducted over approximately a decade in both the US and the UK, Dorfman's survey shows that for most academics retirement works best if they have done some preparation ahead of time; it usually helps to ease into it gradually; most remain in their pre-retirement community rather than relocate; and most adapt to their new situation successfully. Perhaps more interesting, however, are the often eloquent testimonies by those whose experience falls outside the norm, those who resented being forced into retirement, or who chose to make a clean break rather than become one of the old "ghosts" lurking around the campus.

The prevalence of such negative views seems to have been affected

by the extent to which particular institutions accommodated retired faculty: "There's an office here right down the hall with half a dozen names, and they cram them in there, half a dozen of them, in a broom closet." (p. 55) Sound familiar? Some who chose to leave were clearly affected by "loss of status" and the feeling that "You're not needed really by the university once you retire; you're just out of it" (p. 57). "One minute everyone is asking you, waiting for you to do things; the next minute you are a nobody." (p. 79) Surprisingly few complained about their financial situation. More significant were the loss of status and meaningful activity. As one put it, "The worst thing in retirement is the tendency to feel that the struggle is over, I'm finished with it, why should I bother myself with anything." (p. 78)

In summing up, however, Dorfman finds that most of her subjects "... communicated a spirit of resilience and adaptability in dealing with their retired status, an ability to deal, sooner or later, with a major life transition that meant their formal separation from the world of work." (p. 172)

You, too, can be published in the REPORTER

We solicit items such as this from readers – reviews, op-ed pieces, letters to the editor. Make it *your* newsletter.

Send submissions to the editor at the RALUT mailbox, details in next column.

New Members

If you know of anyone who wants to become a member of RALUT, urge that person to contact us at our address shown below.

If you know of anyone who *should* be a member but doesn't know it, contact any member of the Executive Committee.

Publication Notice

The RALUT Reporter is published by RALUT, Retired Academics and Librarians of the University of Toronto, a non-profit association of retirees, near retirees and surviving spouses of the faculty and libraries of the University.

RALUT or any of its officers may be reached by post at J. Robert S. Prichard Alumni House, 21 King's College Circle, Toronto ON M5S 3J3, by phone at 416 978-7256, or e-mail at ral.ut@utoronto.ca.

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