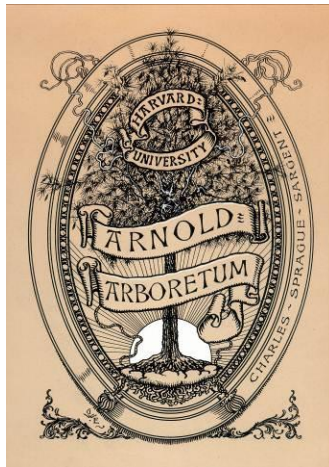


Archives I A-3

"The Controversy" records, 1945-1966: Guide



The Arnold Arboretum of Harvard University

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I A-3

"The Controversy" records, 1945-1966: Guide

Archives of the Arnold Arboretum of Harvard University

125 Arborway, Jamaica Plain, Massachusetts

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Descriptive Summary

Repository: Arnold Arboretum Archives of Harvard University, Jamaica Plain, MA

Call No.: I A-3

Location: Archives

Title: "The Controversy" records, 1945-1966

Date(s): 1945-1966

Creator: Arnold Arboretum

Quantity: 2.7 linear feet, 10 boxes

Language of material: English

Abstract: The collection contains records of the legal dispute between The Association for the Arnold Arboretum, Inc. and the President and Fellows of Harvard College that became widely known as "The Arnold Arboretum Controversy." After a protracted legal battle the outcome was finally adjudicated by the Massachusetts Supreme Judicial Court in 1966.

Note: Access to Finding Aid record in [HOLLIS](#).

Preferred Citation: "The Controversy" records. Archives of the Arnold Arboretum of Harvard University.

Additional material: *Arnold Arboretum Archives:* IB KS Karl Sax (1892-1973) papers, 1938-2001; IB RAH Papers of Richard A. Howard (1917-2003), 1936-2003, Series VII: Controversy; Papers of Susan Delano McKelvey (1883-1964), 1900-2005, Series III: Association with the Arnold Arboretum; VI AAA Records of the Association for the Arnold Arboretum Inc., 1949-1972; IX B Records of Scrapbooks and Clippings 1862- Book 12, 1946-1955 *Harvard University Archives:* UAII 100. Records of the Secretary to the Corporation, 1945-1996 Series: Records related to the Arnold Arboretum Controversy, 1945-1966; *Botany Libraries, Gray Herbarium Archives:* Dr. Reed Rollins Papers: The Files of Dr. Reed Rollins Concerning the Arnold Arboretum Controversy.

Acquisition Information

Provenance: The majority of the material was compiled and assembled principally by Dr. Richard Alden Howard (1917-2003) during the course of the legal controversy. Howard began his Harvard career working under I.W. Bailey in 1938 and entered Harvard as a graduate student in Botany the following year. He earned his A.M. in 1940 and his doctorate in 1942 and was a Junior Fellow during 1946-1947 then joined the Biology Department as an Assistant Professor and Arboretum staff member until 1953. In 1954 he was appointed Arnold Professor and Director of the Arnold Arboretum and would lead the institution until 1978.

Processing Information:

Processed: 1996, Carol David, revised 2011, Sheila Connor, annotated 2016, Elizabeth Jarcy, revised 2023, Larissa Glasser.

Terms of Access

Researchers seeking to examine archival materials are strongly encouraged to make an appointment. The Director, or an office of origin, may place restrictions on the use of some or all of its records. The extent and length of the restriction will be determined by the Director, office of origin, and the Archivist.

Terms of Use

The copyright is held by The President and Fellows of Harvard College for the Arnold Arboretum Archives of Harvard University. The copyright on some materials in the collection may be held by the original author or the author's heirs or assigns. Researchers are responsible for obtaining written permission from the holder(s) of copyright and the Arnold Arboretum Archives prior to publishing any quotations or images from materials in this collection.

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Historical Note

The collection contains records of the legal dispute between The Association for the Arnold Arboretum, Inc. and the President and Fellows of Harvard College that became widely known as "The Arnold Arboretum Controversy." The records reflect almost twenty years of debate about the legality and wisdom of removing resources, principally herbarium specimens, library materials, and part of the institution's endowment from the Arboretum's original location in the Jamaica Plain neighborhood of Boston, Massachusetts to a proposed building under the aegis of a newly created Botany Department on the Harvard campus in Cambridge. After a protracted legal battle the outcome was finally adjudicated by the Massachusetts Supreme Judicial Court in 1966.

The most active years of the controversy, 1949-1958, produced numerous published and unpublished documents including articles, brochures, correspondence, reports and pamphlets that contained detailed, cogent arguments from both parties. The documents were directed to the Harvard community, other botanical and horticultural institutions and associations, and the general public. Media coverage included Harvard publications such as *The Harvard Crimson*, *Harvard Alumni Bulletin*, and Harvard University President's Report. Coverage in major newspapers included *The New York Times*, *The Boston Globe*, *The Boston Herald*, and *The Christian Science Monitor*. Articles also appeared in horticultural and scientific journals such as *Science*, *Horticulture*, and *The Bulletin of the American Association of Botanical Gardens and Arboreta*.

The origins of the controversy began in 1945, with the issuance of a report entitled, [Botany and Its Applications at Harvard](#), by Harvard Professor of Plant Anatomy and Arnold Arboretum staff member [Irving Widmer Bailey](#) (1884-1967). More commonly known as the "Bailey Report" or the "Bailey Plan," it proposed a reorganization of the botanical agencies at Harvard and sought to eliminate the duplication of effort and waste of financial resources by creating two broad budgetary and administrative areas. The area of General Morphology would address the collections of the [Harvard University Herbaria](#) in Cambridge and



Irving Widmore Bailey

the Arnold Arboretum in Jamaica Plain. The area of Experimental and Applied Botany was to include the Arnold Arboretum, [Atkins Gardens and Research Laboratories](#) in Cuba (now the [Cienfuegos Botanical Garden](#)), [Bussey Institution](#)



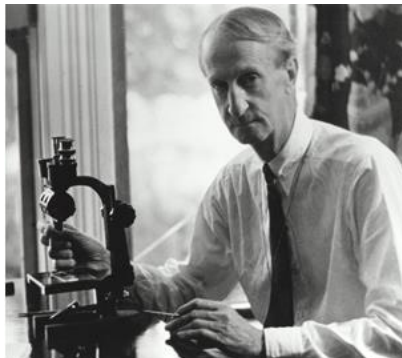
Bussey Institution c1870

(During the mid-1960s the Bussey Institution land was taken by the Commonwealth of Massachusetts by right of eminent domain and funds of the Bussey Institution endowment were committed by the Corporation to establish a new Professorship, the Bussey Professor of Biology, in the Faculty of Arts and Sciences), [Harvard Forest](#) in Petersham, Massachusetts, [Maria Moors Cabot Foundation for Botanical Research](#) (established 1937, ceased 1987 see [Torrey, John G., History of the Maria Moors Cabot Foundation for Botanical Research of](#)

[Harvard University 1937-1987](#)), and the Botanic Garden associated with the Gray Herbarium, a seven acre site on Linnean and Garden Streets, Cambridge (now the location of the Harvard Botanic Garden Apartments and the Herbarium building, Kittredge Hall now houses [Harvard University Press](#)), duplicate books and library resources were to be sold and proceeds applied to funds for a new botanical building. The Harvard Corporation approved the Bailey Plan in the winter of 1946, and proceeded with a plan to raise one million dollars for a central botanical building.



Harvard Botanic Garden
Photograph by Alfred Rehder, March, 1903



Oakes Ames

In 1949 dissent arose. Professor [Oakes Ames](#) (1874-1950) former supervisor of the Arboretum (1927-1935) and Chairman of the Division of Biology (1926-1935), who had originally accepted the Bailey Plan, now raised questions about its legality. The Harvard Overseers Committee to Visit the Arnold Arboretum charged that the transfer of resources from Jamaica Plain violated the terms of the James Arnold Trust that endowed the Arboretum from its inception [additional information on Visiting Committee activities may be found in I E-2 CVA, series VI]. These concerns were addressed by the Overseers Coordinating Committee on Biological Sciences chaired by Walter D. Edmonds (1903-1998), a member of Harvard's Board of Overseers from

1944 to 1950. A legal opinion was requested, and Alfred Lowell delivered a report upholding the Plan. Members of the Visiting Committee retained attorney J. W. Farley, whose report rejected the Plan as a "breach of trust." [Grenville Clark](#) (1882-1967), who had just resigned from the Harvard Corporation, called in a third lawyer, Robert Dodge, whose report concurred with Farley's. The President and Fellows of Harvard requested a fourth report. Oscar Shaw of Ropes & Gray wrote an endorsement, though with reservations about some details. Action under the Plan was suspended. In late 1952, the Overseers Coordinating Committee, now chaired by Laird Bell (1883-1965), recommended dropping the Bailey Plan regarding the Arnold Arboretum, but still favoring moving library and herbarium materials to the new Cambridge building. The Corporation approved the recommendation in January 1953.

Opponents were not mollified by the concessions made. In 1953, The Association for the Arnold Arboretum, Inc., an independent group of prominent citizens and scholars, many with ties to both Harvard and the Arnold Arboretum, formed with the purpose of testing the legality of the relocation of Arboretum resources. The Association asked the Massachusetts Attorney General, who alone had legal standing to sue a charitable trust, to bring suit against Harvard. When Attorney General George Fingold declined, the Association brought suit in *John S. Ames et al. v. Attorney General* to compel him to rehear their application.



Harvard University Herbaria, 22 Divinity Avenue, Cambridge, Massachusetts 1954

In February of 1955, the Massachusetts Supreme Judicial Court refused to compel the attorney general to enter a test suit over the legality of the move. Most books and herbaria specimens were transferred to the new building constructed in Cambridge in 1954, later named the [Harvard University Herbaria](#). Erected between, and connected to, the Farlow Library and Herbarium and the Museum of Comparative Zoology, at completion the building housed the Gray herbarium and library, a major portion of the Arboretum's herbarium, library, and its wood collection in its entirety, The Oakes Ames Orchid Herbarium and library, and the Palaeobotanical Collections of the Botanical Museum. [Reed C.](#)

[Rollins](#) (1911-1998), the Asa Gray Professor of Systematic Botany Emeritus and director of the Gray Herbarium from 1948 to 1978 describes the building's planning and construction in "The Harvard University Herbarium" *Taxon* 4 (2) 1955.

The Association for the Arnold Arboretum, Inc. convinced the new Attorney General, Edward J. McCormack, Jr. to allow members of the Association to sue Harvard in his name and the suit was filed in 1958. The Massachusetts Supreme Judicial Court ruled in 1966 to uphold the removal of most books and herbarium specimens from the Arnold Arboretum Hunnewell Administration building in Jamaica Plain to the Harvard University Herbaria building in Cambridge by a 3-2 vote.

Arrangement

The collection is arranged in six series spanning 10 boxes. With few exceptions, the material was deposited in the archives in two separate transfers: the Massachusetts Supreme Judicial Court Documents were received when the archive was established in 1984; the remaining material was also received in 1984 when transferred from Richard Howard departmental files. The files were merged, with Series 1-5 preceding series 6, with the internal arrangement of each series arranged in the order received when transferred.

Scope and Content

The collection contains correspondence, published and unpublished documents including articles, brochures, reprints, reports, pamphlets, photographs, and newspaper clippings as well as Massachusetts Supreme Judicial Court Documents.

The records are arranged into the following six series:

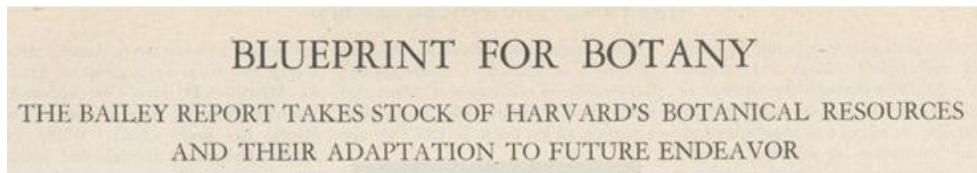
- Series I:** The Bailey Report
- Series II:** Arnold Arboretum Visiting Committee
- Series III:** The Association for the Arnold Arboretum, Inc.
- Series IV:** Opposition to the Bailey Plan
- Series V:** Journal Articles and Newspaper Clippings

Series VI: Massachusetts Supreme Judicial Court Documents
Series VII: Photographs

Container List

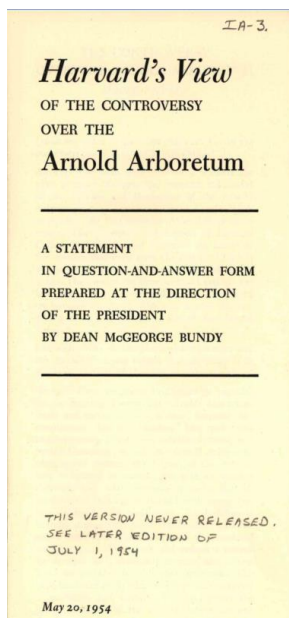
Box 1

Series I: The Bailey Report Folder



Harvard Alumni Bulletin March 9, 1946, p. 443-447.

1. *Botany and its Applications at Harvard. a Report to the Dean of the Faculty of Arts and Sciences* 1945 (pamphlet and photocopy of pamphlet)
2. *Botanical Activities at Harvard 1947-1948.* (pamphlet)
3. *Report of the Coordinating Committee on Biological Sciences* No. 1 1949. (reprint)
4. Pamphlets and correspondence, 1949-1950.
 - *The Arnold Arboretum and Other Botanical Institutions*, by Oakes Ames. Ormond, Florida Dec 19, 1949. No. 35 OA 1949. (pamphlet)
 - Letter from Oakes Ames to H. M. Raup with copy of a letter from Tyler & Reynolds to Oakes Ames.
 - Letter from Blanche Ames to H. M. Raup October 17, 1950.
 - Copies of letters between Mrs. Oakes Ames [Blanche Ames Ames] and Paul C. Manglesdorf, September 27; October 4, 7, 1950.
5. Excerpts from *Ropes & Gray 1865-1990* by Carl M. Brauer, regarding Arboretum Controversy 1940s-1950s. (copy)
6. The Arnold Arboretum and the Bailey Plan, May 1, 1951 (pamphlet) also The Arnold Arboretum and the Bailey Plan. May 1, 1951 (photocopy O.M. Shaw's copy of pamphlet, Ropes-Gray lawyer responsible for Harvard's legal matters which has been annotated [by Peter S. Ashton])
7. "At a Meeting of the President and Fellows of Harvard College in Cambridge." January 19, 1953. (Mimeograph)



8. *Harvard's View of the Controversy over the Arnold Arboretum: A Statement in question-and-answer form prepared at the direction of the President of Harvard* by Dean McGeorge Bundy. May 20, 1954 15p. Annotated, by hand, "this version never released see later edition of July 1, 1954" (Pamphlet) (Displayed below) *and also* *Harvard's View of the Controversy over the Arnold Arboretum: A Statement in question-and-answer form prepared at the direction of the President of Harvard* by Dean McGeorge Bundy. July 1, 1954. 16p. (Pamphlet)
9. "Harvard University Herbarium" by Richard A. Howard. *Flora Malesiana Bulletin* 11, 1955 (Reprint)

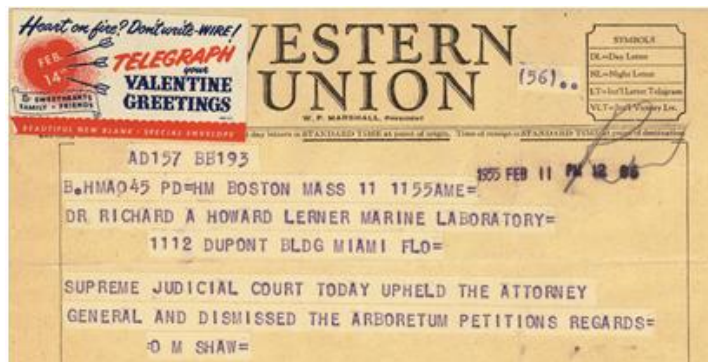
10. Harvard University, Cambridge Massachusetts "A Memorandum about the Arnold Arboretum." April 1957 [Richard A. Howard?] (Typed manuscript)
11. *The Harvard Corporation and the Arnold Arboretum, A Talk* by William L. Marbury, 1957. 8p. bottom of 1st page (p.3) "This is the text of a talk by William L. Marbury, Fellow of Harvard College, before the ladies of the Guilford Garden Club, Baltimore on March 25, 1957. Mr. Marbury is a member of the firm of Piper & Marbury, Baltimore. Harvard University has reprinted this talk in the interest of clarifying some of the questions that have been raised concerning the Arnold Arboretum." (Pamphlet)
12. Ropes & Gray, 50 Federal Street Boston A. letter to Mr. Hermon D. Smith in response to his request for a status report on the Arnold Arboretum case, 1963. (Typed letter)

Box 2

Series: II: Arnold Arboretum Visiting Committee

Folder

1. *Report on the Questions raised by the Bailey Plan so far as it affects the Arnold Arboretum with comments on the opinion by Ropes, Gray, Best, College & Rugg dated May 1, 1952 Submitted to the Overseers Committee to Visit the Arboretum*, March 1952. (Pamphlet, with a 2nd annotated photocopy) (Displayed above)
2. Miscellaneous papers
 - "Richard A. Howard" HC-891. 7 p. (typed dossier)
 - Members of Committee to Visit Arnold Arboretum. 2 p. Typewritten with handwritten annotations. Undated, 1950s
 - List of donors and donations for Case Estates.
 - Memo to Mr. C.A. Roberts from K.C. Newhall regarding "Percentages of space occupied by various departments in the H.U. Herbaria," July 22, 1955.
 - "To members of the Committee to Visit the Arnold Arboretum," regarding final decree etc., (typed draft, n.d.)
 - Arnold Arboretum Harvard University Memorandum from Richard A. Howard, Director. Summarizes the Massachusetts Supreme Court decision in favor of the Corporation, November, 10, 1963. December 18, 1963
 - List of salaries for various Arboretum staff and value of equipment. (Handwritten list, n.d.)
 - Drawing of plaque (to scale) for the Harvard University Herbaria building that lists the various libraries and collection to be contained within. Sent from Shepley Bulfinch Richardson and Abbott, September 26, 1966.
 - "Honors" for Richard A. Howard since 1954. (typed list, 1 page)
 - Telegram from O.M. Shaw [Ropes and Gray] to Richard A. Howard, Lerner Marine Laboratory, 1112 DuPont Building, Miami, Florida regarding Supreme Judicial Court Ruling. February 11, 1955. (Appears below)



Box 3

Series: III: The Association for Arnold Arboretum, Inc.

Folder

1. Correspondence, 1952

- Greenville Clark, Robert G. Dodge, and J.W. Farley to James B. Conant, President, Harvard University regarding legality of Bailey Plan, with an enclosed proposal for an official statement of policy. 9 p. Typewritten. December 22, 1952

2. Pamphlets, correspondence, 1953

- *A Statement by Grenville Clark Concerning the Arnold Arboretum Controversy*, Dublin, New Hampshire, December 3, 1953. 3p. (Reprint)
- "The Arnold Arboretum Controversy: A Letter to the *Harvard Alumni Bulletin* from John S. Ames, Grenville Clark & Ellery Sedgwick, 1953. (Published in the *Harvard Alumni Bulletin*, December 12, 1953) (Reprint)
- Association for the Arnold Arboretum, Inc. Invitation to discuss the suit in the Massachusetts Supreme Court, from Endicott Peabody, 1953 (Form letter):
 - 1 addressed to Professor Howard, includes reply from Richard A. Howard to Mr. Endicott Peabody, with letter of reply to Professor Howard from Endicott Peabody.
 - 1 addressed to Doctor Harriet Creighton, with Response to Association Invitation, from Dr. Creighton to Granville Clark, Association for The Arnold Arboretum, Inc.

3. Petitions to the Supreme Judicial Court of Massachusetts, 1954

(Pamphlet)

4. Reprints, correspondence, 1954

- "The Arnold Arboretum Controversy: A Letter from J. S. Ames, G. Clark, and E. Sedgwick in reply to the Harvard Corporation's Letter in the *Harvard Alumni Bulletin* of December 1953, sent to the *Bulletin* May 1954 but publication refused" Association for the Arnold Arboretum, Inc. (Reprint)
- Association for Arnold Arboretum, Inc.: Membership and other appeal letters addressed to: Miss Creighton; Mrs. Wakefield, attached letter from Harriet B. Creighton to Mr. Peabody.
- Association for Arnold Arboretum, Inc. Draft of letter inviting membership in the Association
- Association for Arnold Arboretum, Inc. Packet of material:
 - Membership form, postcard
 - Return envelope
 - *A Report to the Members of the Board of Directors of the Association for the Arnold Arboretum* (reprint), 1954.
 - *The Arnold Arboretum Controversy. A Statement by the Board of Directors of the Association for the Arnold Arboretum, Inc.* (Reprint)

4. Pamphlets, correspondence, 1954

- Association for the Arnold Arboretum, Inc. list of members (Nov. 30, 1954). (Pamphlet)
 - *The Association for the Arnold Arboretum, Inc. (nonprofit corporation); Mission Statement and membership appeal.* 1954 (Pamphlet)
 - *Association for the Arnold Arboretum, Inc.; List of Members (as of June 22, 1954)* (Pamphlet)
 - Letter to Dr. Howard from Thomas V. Rankin, 1954.
- 5.** "The Arnold Arboretum Controversy: An article by Hon. Nathan Matthews in Harvard Graduate's Magazine of March 1918 dealing with the decision of the Supreme Judicial Court of Massachusetts in the Harvard-M.I.T case relative to the Gordon McKay bequest for engineering education; decided in November

1917 and reported as *President and Fellows of Harvard v Attorney General et al in 228 Mass, 396*. (Pamphlet)

6. **A Review of the Arnold Arboretum Controversy**. 1955. 11 p. Printed note and membership card attached soliciting members for Association (Pamphlet)
7. **Form letters, reprints, pamphlets, flyer and letter, 1955**
 - Association for the Arnold Arboretum, Inc., Form letter on the passage of a resolution. Correspondence includes: Form letter with hand written salutation to: Mr. Freeman (L. J. Freeman) which he sent with a cover letter to Hugh Raup, January 4, 1955; Form letter with hand written salutation to Professor Raup.
 - Association for the Arnold Arboretum, Inc. Memorandum: To the Members of the AABGA, Inc. January 6, 1955. (Letter)
 - Association for the Arnold Arboretum, Inc. Letter from John T. Hemenway to Prof. Howard, September 27, 1955
 - *A Letter on the Arboretum Dispute from Mr. Jerome D. Greene to Mr. Thomas V. Rankin*. (Reprint)
 - *Reply to a Letter on the Arboretum Dispute from Mr. Thomas V. Rankin to Mr. Jerome D. Greene*. (Reprint)
 - Memorandum by Counsel R. G. Dodge, pamphlet, and cover letter (2); J. W. Farley ... September 15, 1955
 - Association for the Arnold Arboretum., Inc. a cover letter signed T. V. Rankin; Executive Secretary, 1955. (Flyer)
 - Association for the Arnold Arboretum, Inc. Memorandum Sept. 27, 1955. (Flyer)
 - John T. Hemenway, President; Association for the Arnold Arboretum, Inc., Association packet of materials to Miss S. M. Whitehouse from Thomas V. Rankin.
8. **Pamphlet, brochure, reprints, open letter, 1956-1957**
 - *A Denial of Justice and a Matter of principle, A Statement by a Special Committee of the Association for the Arnold Arboretum, Inc.* (Pamphlet)
 - Letter to Dr. Howard from Augusta S. Merrill. (Copy) with note attached from Thomas V. Rankin, 1956
 - Association for the Arnold Arboretum, Inc., Budget Statement, 1957 (Reprint)
 - Arnold Arboretum 85th Anniversary, 1872-1957. (Brochure)
 - *Association for The Arnold Arboretum, Inc., open letter to the members of the Harvard Corporation*, February 7, 1957
9. **Pamphlet, open letter, 1958**
 - *The Arnold Arboretum Controversy, Question and Answer Review* (Pamphlet)
 - Statement by John T. Hemenway, 1958. (Open letter)
10. Excerpt from Palmer & Dodge: *A Centennial History, 1959-1961*. (p. 44-54)

Box 4

Series: IV: Opposition to the Bailey Plan

Folder

1. Correspondence, leaflet, 1954-1955

- The Arnold Arboretum Controversy; An Address Before the Annual Meeting of the Federated Garden Clubs of Mass, 1954. (2 typed pages)
- Letter from Helen H. Arnold to Dr. Howard, 1954
- Letter from Eugene C. Kraetzer, Jr to Albert C. Burrage, Esq. May 6, 1954
- The Peter Cascio Nursery, "The Raid on the Arnold Arboretum." (Leaflet)
- Letter from Peter Cascio to Richard A. Howard answering Howard's request for "The Raid" newsletter, 1955
- Letter from Judge Learned Hand's Chambers to Thomas V. Rankin, Esq.

2. Correspondence, 1955.

- Letter from John C. Wister. Swarthmore College, to members of the American Association of Botanical Gardens and Arboreta re: Arnold Arboretum Article in April Newsletter, 1955
- Farr & Millard Attorneys at Law. A letter from Mr. Malcolm S. Millard to Mr. Nathan Pusey, 1955

3. Pamphlet, flyer, newspaper articles, 1956

- *A Letter and A Memorandum from "A Professor at Harvard to the President of the University from Ivan M. Johnston,"* 1956. (Pamphlet)
- Statement of the Winterthur Conference on the Arnold Arboretum with enclosed flyer of photocopied newspaper articles, [1956]

4. Correspondence, 1957

- Association for the Arnold Arboretum, Inc. To Members of the Association for the Arnold Arboretum, January 25, 1957
- Association for the Arnold Arboretum, Inc. To the Members of the Arnold Arboretum, Inc., June 12, 1957
- A letter from George L. Slate to Dr. Nathan M. Pusey, President Harvard University, March 22, 1957 (Copy)

5. Correspondence, n.d.

- A letter from Ellen Thorne Smith to Mr. Fordham, n.d. (Photocopy)

Box 5

Series V: Journal Articles and Newspaper Clippings

Folder

1. Articles and Clippings

- "New Secret Report May End Six-Year Botanical Quarrel." *The Harvard Crimson*, December 3, 1952
- "College's Botanical Empire Seeks Coordination." *The Harvard Crimson*, December 3, 1952
- "Storm over Botany." *Harvard Alumni Bulletin*, April 18, 1953
- "For Botany: The new Botany Building" *Harvard Alumni Bulletin*, October 10, 1953
- "Technical Legal Point Stalls Arboretum Suit." *The Harvard Crimson*, November 19, 1953
- "Dodge Will Sue Fingold to Compel Arnold Suit." *The Harvard Crimson*, November 20, 1953
- "Harvard, 3 Alumni at Odds Over Arnold Herbs, Books." *The Boston Daily Globe*, December 12, 1953
- "Arboretum Plan Stirs Harvard: Removal of Books Held Grave Wrong." *The Boston Herald*, December 12, 1953
- "Lawsuit Aims to Block Harvard," *The Boston Herald*, December 18, 1953
- "Petitions Seek to Prevent Arnold Arboretum Transfers." *The Boston Herald*, December 18, 1953
- "All Honorable Men." *Boston Herald*, December 27, 1953
- "Arnold Arboretum Dispute." *Horticulture*, 32 (1) 1954
- "The following excerpts concerning the journal article Arnold Arboretum of Harvard University ..." *Science*, 119 pp. 369-370 1954
- "Arboretum Petitions Given to Court." *The Christian Science Monitor*, April 14, 1954
- "Letters: Logic & Tradition." *Harvard Alumni Bulletin*, April 17, 1954
- "Supreme Judicial Court: *John S. Ames et al v. Attorney-General* ..." *The Boston Herald*, October 8, 1954
- "Court Ponders Arboretum Dispute." *The Boston Herald*, October 8, 1954

- "Arboretum: Dry Leaves and Discontent." *The Harvard Crimson*, October 21, 1954
- "The Arnold Arboretum." *Bulletin of the Garden Club of America*, November 1954
- "The complicated controversy over the Arnold Arboretum." *Science*, 121 no. 3143 p. 416, March 1955
- "The Harvard University Herbarium." *Taxon*, 4 (2) March, 1955
- "Arnold Group Seeks Action on Transfers." *The Harvard Crimson*, April 15, 1955
- "Harvard Rapped in Pamphlet for 'Destroying' Arnold Arboretum." *The Boston Daily Globe*, April 15, 1955
- "Harvard is Accused of Violating Trust." *The New York Times*, April 15, 1955
- "Harvard Clubs to Hear Issue of Arboretum." *Boston Sunday Herald*, April 15, 1955
- "Library Move Hit: Arboretum Debate Warms Up." *The Christian Science Monitor*, April 15, 1955
- "Can Harvard Survive?" *The Boston Sunday Globe*, May 15, 1955
- "Arnold Arboretum Controversy." *Science*, 121, no. 3154, pp. 835-36, 1955
- "Arnold Arboretum Association Publishes new Critical Report." *The Harvard Crimson*, 134 no. 140, 1956
- "Arboretum Group Again Hits at Changes by Harvard." *The Boston Herald*, November 24, 1956
- "Arboretum Stirs Harvard Dispute." *The New York Times*, November 25, 1956
- "Weston Votes Central Location for New School." *The Boston Herald*, November 30, 1956
- "'Agreement' Story Was Told At The Hearing." *The Town Crier*, November 14, 1957
- "Arnold Arboretum: Corporation Faces Trial In Breach of Trust Suit." *The Harvard Crimson*, 136, no.166, 1958
- "Court to Rule On Arboretum." *The Boston Herald*, December 16, 1958
- "The Arboretum Controversy." *Harvard Alumni Bulletin* January 17, 1959
- "State to Sue Harvard In Arboretum Battle." "Arnold Arboretum Controversy." *Science*, 129, 1959
- "Arboretum Trust Case nears Verdict in Court." *The Harvard Crimson*, 137, no.96, 1959
- "Arboretum Plants Row Near Climax." October 1, 1959
- "Battle Shaping Over Plants." *Standard Times*, New Bedford, October 2, 1959
- "The Arboretum Case," "State's High Court Approaches Ruling on Arboretum Suit." *The Harvard Crimson* 143, no.103, October 8, 1965
- "The Arboretum Case." *Harvard Alumni Bulletin*, October 23, 1965
- "Arboretum to Harvard High Court Upholds Herb Display Move." "Harvard Wins Arboretum Case; 3-2 Decision Ends Court Battle," *Harvard Crimson*, 143 no. 177, 1966
- "From left: Elliot L. Richardson, Hugh Calkins and Judge Charles M. Wyzanski Jr. at 1986 Harvard commencement." *The Boston Globe*, Sunday September 21, 1986
- "Arboretum Issue Before High Court." 1956?
- "Arboretum Vote Asked By Harvard." 1956?
- "Arboretum Backers Sue, Seek Intact Institution." "Harvard Alumni Fight Plan for Arboretum; Want it Kept Intact on Old Site in Boston." "Court Asked to Block Shift of Arnold Herbarium, Library." *New York Times*, n.d.
- "Court to Rule on Arboretum." n.d.
- "Herbarium Case Explained by Arboretum Head." n.d.

- Sunday, December 13, no year.
- "Keep Arboretum in One Place." Letter to the Editor: *The Boston Herald*, Leonora B. Hamilton, Milton [Massachusetts]

2. Articles

- Articles regarding Arnold Arboretum controversy appearing in *Science*. 119, Nos. 3090, 3093
- "The Arnold Arboretum and the Decision of the Massachusetts Supreme Court" by Richard A. Howard, *Newsletter of the American Association of Botanic Gardens and Arboreta*, Issue no. 22 [1954]
- Harvard University. The President's Report 1966-1967, Arnold Arboretum Controversy. pp.11-12

3. Articles: *Harvard Alumni Bulletin* articles about the Controversy:

- March 9, 1946, "Blueprint for Botany; Bailey Report Takes Stock of Harvard's Botanical resources and their Adaptations to Future Endeavor," pp.[443]-447
- March 21, 1953, "The Botany Building," pp. 497,498
- April 18, 1953, "Storm Over Botany; a Summary of the Six Years of Conflict About the Bailey Plan and Arboretum," pp. 583-585, 589
- Dec. 12, 1953, "The Arboretum Controversy," pp.264-269
- Jan. 23, 1954, Letters to the Editor, "Thoughts on the Arboretum" pp.291-292
- April 17, 1954, Letters to the Editor. "logic & tradition," pp. 538-539
- Feb. 5, 1966. "Arboretum Case Decided," pp. 338

[Many of the *Bulletins* are annotated by Susan Delano McKelvey who actively opposed the implementation of the Bailey Plan. McKelvey was a member of the Arboretum Visiting Committee and also a member of the Association for the Arnold Arboretum, Inc.]

A legal green light to
disincumber A.A.

BLUEPRINT FOR BOTANY

THE BAILEY REPORT TAKES STOCK OF HARVARD'S BOTANICAL RESOURCES
AND THEIR ADAPTATION TO FUTURE ENDEAVOR

February 1946

A SIMPLE three-paragraph vote by the Harvard Corporation last month started machinery which will have far-reaching effect on Harvard's botanical empire—a domain stretching from Pisgah Forest in Winchester, N. H., to the tropical garden of the Atkins Institution in Soledad, Cuba.

Voted that this board approves in principle the reorganization of Botany contained in the revised edition . . . of Professor Irving W. Bailey's report of June 1945 . . . and that the Provost be authorized to proceed with the organization.

Voted that this board undertake to raise up to one million dollars for a central botanical building.

Voted that the Director of the University Library be authorized, with the cooperation of the Provost, to proceed with the liquidation of duplicate botanical books; and that the treasurer be authorized, with the cooperation of the Provost, to take such steps as he deems necessary to sell any surplus botanical real estate, the proceeds of any such sales to be part of the one million dollars to be raised by this board for a central botanical building.

For the botanical studies this vote by the Corporation is as historically important as the adoption of the House Plan was to the College. It means a reorientation and realignment of botanical activity at the University, the di-

of the interests of important members of the botanical staff "without reference to a sound and broadly conceived program for the development of botany as a whole."


Paul H. Buck, Ph.D. '35, Provost of the University, assigned to Irving Widmer Bailey, '07, M.F. '09, Professor of Plant Anatomy, the arduous task of

times mutually antagonistic and financially competitive, carried on their activities without the direction of central policy. The President of the University dealt directly with individuals and served largely as a referee in dealing with their conflicting demands and divergent viewpoints.

These nine independent provinces of Harvard's botanical realm were:

The Botanic Garden. Established in 1807 under the auspices of the Trustees of the Massachusetts Professorship of Natural History (William D. Peck, A.B. 1782, was the first incumbent). Actively supported by the Massachusetts Society for Promoting Agriculture, it became the property of the College in 1831 and an important early center for the demonstration of living plants and the teaching of botany. The Garden declined in significance after the establishment of the Arnold Arboretum and the collections of the Botanical Museum. Its greenhouses were dismantled in 1936 and it ceased to be significantly functional. The Botanic Garden was always inadequately endowed.

Gray Herbarium. Asa Gray, A.M. Hon. 1831, LL.D. '75, provided the nucleus for this collection in 1864 with his



IRVING W. BAILEY, '07
Professor of Plant Anatomy

Harvard Alumni Bulletin March 9, 1946, p. 443. Annotated by Susan Delano McKelvey.

Box 6

Series VI: Massachusetts Supreme Judicial Court Documents

1. *John S. Ames & others vs. Attorney General* (and a companion case), February 16, 1955. (Typed manuscript)
2. Advance Sheets: Opinions of the Supreme Judicial Court. *John S. Ames & others vs. Attorney General* (and a companion case), October 7, 1954-February 11, 1955, pp. 111-120. (Pamphlet)
3. Advance Sheets: Opinions of the Supreme Judicial Court. *Attorney General vs. President and Fellows of Harvard College* October 7, 1965-Jan. 31, 1966, pp.89-120. (Pamphlet)
4. Commonwealth of Massachusetts Supreme Judicial Court. No. 11, 411 *John S. Ames et al v. Attorney General. Same v. Same* Petitions for Writs of Mandamus and Certiorari. Brief for respondent George Fingold, Attorney General (Booklet)
5. Commonwealth of Massachusetts Supreme Judicial Court *John S. Ames et al. vs. George Fingold* (Attorney General). *John S. Ames et als v. George Fingold* Petition for Writ of Certiorari, April 14, 1954. (Booklet)
6. Commonwealth of Massachusetts HC-891; Supreme Judicial Court Equity No. 68735. *Attorney General, ex rel John S. Ames, et al v. President and Fellows of Harvard College* Respondent's Motions with Respect to Report of Master. (Typed manuscript)
7. Commonwealth of Massachusetts Supreme Judicial Court Equity No. 68735; *Attorney General, ex rel John S. Ames, et al v. President and Fellows of Harvard College*. Respondent's Requests for Findings of Fact. (Typed manuscript)
8. Commonwealth of Massachusetts Supreme Judicial Court Equity No. 68735. *Attorney General, et al v. President and Fellows of Harvard College*. Before Henry E. Foley, Esq., Master. Petitioners Proposed Findings of Facts. n.d. (Typed manuscript)
9. [Howard, Richard A. His typed responses to a number of statements made in the Petitioner's Proposed Findings of Facts]. n.d.(2 pages) also copy of Appendix C pp. 153-156 n.d. [1953 vote of the Harvard Corporation of "policy to govern the administration of the Arnold Arboretum"]
10. *Attorney General vs. President and Fellows of Harvard College*. Court document October 7, 1965-January 31, 1966, pp. 125-156 (photocopy) [annotated by Peter Ashton]
11. Civil Subpoena to produce Document or Object United States District Court for the District of Massachusetts. "You are hereby commanded to appear ... and bring with you the entire card catalog of all books, pamphlets, monographs etc. ... May 31, 1962." (Photocopy of subpoena) (Appears below)

YOU ARE HEREBY COMMANDED to appear in the United States District Court ~~for the~~
before Master Henry Foley, District of Massachusetts
at Federal Bldg, 10th Fl. Post Office Square, Boston on
the 5th day of June 1962 at 10.30 o'clock A.M. to
testify on behalf of the defendants

in the above entitled action and bring with you the entire card catalog of all books,
pamphlets, monographs etc. now located in the Administration Building
at Arnold Arboretum, Jamaica Plain.

12. In the Supreme Judicial Court, John S. Ames of Easton in the County ...v. The Honorable George Fingold, as he is Attorney General of the Commonwealth of Mass., Petition for Writ of Mandamus
13. Commonwealth of Massachusetts, Supreme Judicial Court. *John S. Ames ...v. George Fingold*. In re Petition for Writ of Mandamus. (Typed

manuscript)

Box 7

Series VI: Massachusetts Supreme Judicial Court Documents

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1. Appendix E. Commonwealth of Mass.; Supreme Judicial Court No. 8735 Equity *Attorney General v. President and Fellows of Harvard College*. n.d. Respondent Objections to Master's Report. Requests for Summaries of Evidence, and Requests for Reports of Questions of Law Arising in the Course of the Master's Duties (Photocopy)
2. Final Decree Ropes & Gray letter to Richard A. Howard with official Final Decree attached, June 1, 1964 (Typed manuscript)
3. Commonwealth of Massachusetts Supreme Judicial Court No. 68735. Equity *Attorney General ex rel., John S. Ames, et al v President and Fellows of Harvard College*. Respondent's Cross Interrogatories to Dr. William J. Robbins (Typed manuscript)
4. Commonwealth of Massachusetts Supreme Judicial Court No. 68735. Equity *Attorney General et al, John S. Ames, et al v President and Fellows of Harvard College*. Affidavit in Support of Respondent's Motions with Respect to report of Master. November 29, 1963 (Typed manuscript)
5. Appendix F. Master's Response to Respondent's Requests, 1963. Commonwealth of Massachusetts Supreme Judicial Court No. 68735 Equity. *Attorney General ex rel, John S. Ames, et al v. President and Fellows of Harvard College* Report of Master. June 19, 1963. (Typed manuscript)
6. In re Petition for Writ of Mandamus (Typed manuscript)

Box 8

Series VI: Massachusetts Supreme Judicial Court Documents

Folder

1. Commonwealth of Massachusetts Supreme Judicial Court for the Commonwealth. *John S. Ames & Others v. Attorney General, Same v. Same* Brief for the Petitioners. October 1954, Arnold Arboretum 1st Floor of Administration Building, Floor Plan (Pamphlets)
2. **Volume I:** *Attorney General ex rel., John S. Ames, et al, v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master. Boston, Mass. March 7, 1962
3. **Volume II:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master. Boston, Mass. March 8, 1962
4. **Volume III:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College*. Before Henry E. Foley, Esq., Master. Boston, Mass. March 13, 1962
5. **Volume IV:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College*. Before Henry E. Foley, Esq., Master. Boston, Mass. March 14, 1962
6. **Volume V:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master. Boston, Mass. March 15, 1962
7. **Volume VI:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master. Boston, Mass. March 20, 1962
8. **Volume VII:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College*. Before Henry E. Foley, Esq., Master. Boston, Mass. March 21, 1962

Box 9**Series VI: Massachusetts Supreme Judicial Court Documents****Folder**

1. **Volume VIII:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College*. Before Henry E. Foley, Esq., Master Boston, Mass. April 3, 1962
2. **Volume IX:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master Boston, Mass. April 4, 1962
3. **Volume X:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master Boston, Mass. April 5, 1962
4. **Volume XI:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master. Boston, Mass. Wednesday, April 11, 1962
5. **Volume XII:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master. Boston, Mass. April 12, 1962
6. **Volume XIII:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master Boston, Mass. April 16, 1962
7. **Volume XIV:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master. Boston, Mass. April 17, 1962
8. **Volume XV:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master Boston, Mass. April 18, 1962
9. **Volume XVI:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master. Boston, Mass. April 25, 1962
10. **Volume XVII:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master, Boston, Mass. April 26, 1962

Box 10**Series VI: Massachusetts Supreme Judicial Court Documents****Folder**

1. **Volume XVIII:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master Boston, Mass. May 1, 1962. pp. 2032-2159
2. **Volume XIX:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master Boston, Mass. May 2, 1962. pp. 2160-2221
3. **Volume XX:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master. Boston, Mass. May 8, 1962. pp. 2222-2314
4. **Volume XXI:** *Attorney General ex rel., John S. Ames et al v. President and of Harvard College* Before Henry E. Foley, Esq., Master Boston, Mass. May 9, 1962. pp. 2315-2443
5. **Volume XXII:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College* Before Henry E. Foley, Esq., Master Boston, Mass. May 23, 1962. pp. 2444-2589

6. **Volume XXIII:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College Before Henry E. Foley, Esq., Master Boston, Mass.* May 24, 1962, pp. 2590-2731
7. **Volume XXIV:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College Before Henry E. Foley, Esq., Master Boston, Mass.* May 31, 1962 pp. 2732-2850
8. **Volume XXV:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College Before Henry E. Foley, Esq., Master Boston, Mass.* June 1, 1962. pp. 2851-2996
9. **Volume ____:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College Before Henry E. Foley, Esq., Master. Boston, Mass.* September 19, 1962, pp. 1-197
10. **Volume II:** *Attorney General ex rel., John S. Ames et al v. President and Fellows of Harvard College Before Henry E. Foley, Esq., Master. Boston, Mass.* September 20, 1962 pp. 198-2528

Box 10

Series VII: Photographs.

Folder

1. Consists of a collection of 23 (1-16 numbered) images of the Harvard University Herbarium building all, with the possible exception of nos. 14-16, presumably taken by Walter R. Fleischer, Harvard University News Office. Eight of these images (noted by *) were published with similar captions in Rollins, Reed C. "The Harvard University Herbarium" *Taxon* 4 (2) March, 1955. Plate I, in the Reed article attributed to Walter R. Fleischer is not in this collection. Legends for nos. 1-16 typed on onionskin overlay and attached to verso of image. All are 8x10 b&w prints, with the exception of nos. 14, 15, and 16 which are 5x7 b&w prints.



- 1. "A modern herbarium building. The building is air-conditioned and air-filtered to reduce dust. The temperature and humidity are carefully controlled to preserve both specimens and books."
- 2. "Interior of herbarium, showing steel herbarium cases and work area at far end of corridor. The large steel cases contain 26 compartments. Depending on the thickness of the plant specimens, each compartment may contain from 50 to 250 specimens."
- 3. "Lobby of the Harvard University Herbarium."
- 4. "The reference room of the library. Doors along the left wall open into the library staff offices. Map cases and indices for taxonomic work are of steel. General reference works are on the shelves of this reading room." *
- 5. "Students attending a laboratory. The small drawers against the far wall contain wood sample." *
- 6. "Work area in the herbarium." *
- 7. "View of the stacks, Harvard University Herbarium library (comprised of the library of the Arnold Arboretum [*sic* Gray Herbarium?] and the scientific library of the Arnold Arboretum. The horticultural library of the Arnold Arboretum is housed in Jamaica Plain, Massachusetts). Folio volumes are stored in a flat position. periodicals (*sic*) are on the left of the aisle." *
- 8. "Here the herbarium specimens are sorted before being filed in the herbarium cases." *
- 9, 10. "An office in the Harvard University herbarium." [2 images, each of a different office? One showing sink and desk counter* the other showing man sitting at free-standing desk]
- 11. "Books on the counters are the *Index Kewensis*. This index is a composite of all the volumes of *Index Kewensis* which has been compiled, leaving room on the pages for new entries as they are published. The photographs on the far wall are: [blank]" *
- 12. "The Oakes Ames Orchid Herbarium, located in the Harvard University Herbarium." *
- 13. "Lecture room in the Harvard University Herbarium."
- 14, 15. Modern herbarium work requires ready access to specimens, books and microscopes. [Please note these two images were taken in the herbarium of the Arnold Arboretum in Jamaica Plain and depict Mrs. Heman Howard (Elsie) who worked as a herbarium specimen mounter." [2 images, slightly different]
- 16. "A modern herbarium specimen is mounted on heavy linen paper. Strips of cloth tape or stitches taken with linen thread may supplement the adhesion of glue or plastic. The Label in the lower left-hand corner supplies information on the specimen and its collection. A packet may contain additional fragments of the plant or microscopic dissections already made. The wood sample attached to the sheet is unusual."
- Unnumbered. "Construction of the Harvard Herbaria Building 1954" handwritten on verso and stamped " Photo by Walter R. Fleischer, Harvard University News Office, Cambridge 38, Mass."
- Unnumbered. "Lobby of Harvard U. Herbaria" handwritten on verso shows two Harvard chairs in lobby.
- Four unnumbered images of herbarium cases all without identification. Two (A, B) are of the same view of herbarium cases, corridor and outer wall workspace under windows, (B) has two people at the workspace (C) is a view of facing herbarium cases and the corridor in between, and (D) shows full cases with open doors and half cases with closed doors with *Index*

Kewensis volumes on the half cases. (All four of these prints have a corresponding negative in a separate folder)

2. Four more contemporary images of the Harvard University Herbaria.
 - Two are of herbarium staff: Jo UMBER, Jackie Smith, Eric Lee and Ray UMBER sorting specimens in the herbarium workroom. n.d.
 - One is of the front of the building pre-addition ca1970s
 - One is of the front of the building post-addition ca1980s



Left: Mary Ashton (left) and Ellen McFarland (right) at the Arnold Arboretum Association plant sale at Case Estates, 1990; Right: Perennials for sale

3. Arnold Arboretum Association plant sale, 1990
 - Sixteen 3x5 color prints of the Arnold Arboretum Association's 1990 plant sale at Case Estates.