

**Barge v. Weems Teaching Resources**

**Excerpts from trial record of archival case file of *Barge v. Weems*, 109 Ga. 685 (1900). The full archival case file is located in the Georgia Archives, Morrow, Georgia.**

W. H. Weems, the plaintiff sworn said: I worked with Mr. Barge in 1897. I worked on halvers. I worked Mr. Barges horse. I had six in family. I made 14 1/2 bales of cotton and about 150 or 200 bushels of corn. I made 12 loads of corn. Between 15 and 20 bushels to the load. I was to have half of the crop, that was the contract. After I got through laying by I went up to Mr. Barges to seem him to get my account adjusted, had it run up and Mr. Barge gave me a statement of my account and it was \$74.71.

I had it down in Campbell County, and it got misplaced, in some manner, I just don't remember how. My guano was \$30.00 and then when I commenced gathering my crop I hauled up to Mr. Barges gin house according to the contract between me and Mr. Barge the cotton and after I paid what I owed out there would be what remained mine on the crop after we divided the crop and I said I wanted it. Every week I carried to Mr. Barge two bales of cotton, every week I would go up and get his wagon and carry him two bales of cotton to his gin house until I got 9 bales carried and then I commenced with Mr. Barge for a settlement. And Mr. Barge did not settle with me. I then hauled two more bales of cotton and asked him again. I went to him a half dozen times for a settlement until I had hauled 12 bales of cotton and then I asked him for a settlement, went to him a half a dozen times for a settlement but he wouldn't settle. He suggested to me to wait until I had gathered all my crop and then we would have a settlement, not to have too many settlements. I said to Mr. Barge my people has to have something to wear, they are naked. I held up my foot showing him the only shoes I had and they were not as good as these (showing his shoes to the jury) and I said these are the only shoes I have got in the world. I said I have gathered the crop as fast as I could gather it and I said I have got to have something to live upon. Well he said I haven't got time to settle. I said you haven't got time to settle let me have my cotton seed and I will see if I can't sell some to get some thing to live on, that will do as well. He had in his possession my half of the seed out of 12 bales of cotton and has it except 9 bushels of seed that he let me have to feed my cow.

I tried to get him to let me have the seed so I could sell them. They were going then at 13 cents and I could have sold them and done very well if he had let me have my seed but he kept them in his possession. I had hauled him 12 bales of cotton and I knew he was in debt to me. I consulted some lawyers in town as to whether I could sell one of the bales of cotton, but before that I had sued Mr. Barge for a settlement, tried to get a settlement out of him, I had sued him for a settlement and that was tried the first Saturday in December. That was before he sued out the warrant against me. When I consulted the lawyers to see whether I would be correct they told me I would have a right to sell it. I was in town and I had 3 or 4 lawyers to make the calculation and they said you are out of debt and you have a perfect right to sell it. I goes back home and I gets a man to haul it.

Mr. Powell, Oscar Powell. I got him to haul the bale of cotton, I got him to bring it to town and I sold it and I went back to Mr. Barge and I said I have sold a bale of cotton, lets have a settlement and lets see how we stand. I said if in this bale of cotton a part of it is yours you can get it and if there is nothing then we can know exactly ow we stand. Mr. Barge answered and said what did

you do that for. I said well Mr. Barge I told you that my people had to have something to eat and that they were naked and that my children couldn't hide their nakedness, can't do it right now, they have got on every bit of clothing they have and the only way they can get along is that my wife washes their clothes for them on Saturday nights and they put them on Sunday morning, washes their clothes after they have gone to bed, and I am obliged to having something to go upon. Mr. Barge said there is no use to have too many settlements, one settlement will do, you gather all of your crop and haul it up and we will make a settlement. I told him I must have something to go upon.

I sold a bale of cotton and I carried the bill to him, I got the bill I told him exactly where I sold it, that I sold it at the warehouse that turns up on Madison Ave., immediately by Nelson, that I didn't change my name that I didn't change my post office, that I had sold the bale of cotton, told him what it brought and that I had brought the bill to show for itself. That it had brought \$23.07 and I said I am now ready for a settlement. He said you have brought suit against me for a settlement. I said that don't make any difference, if we come to a settlement I can stop that trial right now, that is what I told him. I got Mr. Hathcock to gin the cotton. Mr. Barge had a warrant sworn out for me. Mr. Roberts arrested me. He arrested me and carried me before Judge Estes in the Sand Town District, Campbell County, and when we got there I told Mr. Estes that I was not ready for trial and that I would waive trial and give bond and Mr. Barge put the bond at \$200.00 I could have got ten men to go on my bond, with whom I had made a trade, I had hired to Mr. O. Crabfield to live with him the next year, he would have gone on my bond. He would have gone on a fifty dollar bond. I tried to get Judge Estes to cut the bond down and I would make it and Judge Estes said to me Mr. Barge had a right to fix the bond and that was the bond he required to be fixed. They carried me to jail on the 7th of December. And Mr. Roberts came to me and asked me what I would settle this matter at. I said I worked hard on Mr. Barges place, but I says if you will go to Mr. Barge and he will give me ten bushels of corn to help me through the winter he can have the balance of the crop. He went to Mr. Barge and told him and came back and said that he wouldn't do it. I said well Mr. Roberts, I will take my portion in jail. The next morning I went to jail and stayed there an humble prisoner in jail until the 4th of next March. Mr. Adahold, John Adahold of Campbell County. He went on my bond. He is the Sheriff of Campbell County. I stayed there from December to March. They got a bill against me. I had a trial. Mr. Nesbit and Mr. Roane defended me. They are lawyers that live in Campbell County. I turned over 12 bales before I took off the bale. And there were 875 lbs, of seed cotton in his possession and he had my part of the cotton seed in his possession. And his part too. It brought from five and a half to 5-7/8. Every bale, all of the bales would average 440 lbs, every one of them. At 5-1/2 cents around. The corn was still in the field, hadn't been gathered. I went to gether the corn and he told me to go back and start to pulling it. I went back and pulled it and it was 2 or 3 weeks before I could get a wagon to haul it and I didn't haul it before I went to jail. He swore that I owed him \$110.00 for provisions, in Campbell Superior Court, and \$30.00 for guano. He swore when he first got on the stand that 0 owed him, and then afterwards he swore that I had paid him up. Mr. Roane, one of my lawyers, got after him and he swore it. Yes sir, he said on the stand that I didn't owe him anything for guano or provisions. But the only thing he claimed was damage was for my half tending the crop and that the justice gave it to him. He said upon the stand that I didn't owe him anything for provisions but that I hadn't cultivated the crop well. That was the first time I ever heard of not cultivating the crop well. It was cultivated, I had a good crop, as good as there was in Campbell County. I made 14 1/2 bales of cotton. About 30 acres or a little more than 30 acres,

I had in cultivation. About 40 in corn and cotton too. I made 150 or 200 bushels of corn. It was very poor in places, some places it was tolerable fair land and the bottoms, what I had in the bottoms in some places it didn't made nothing because it was wet all the time. But some of the corn I had was as good corn as was grown in Campbell County.

No body in the world but Mr. Barge got on the stand, except Mr. Barge when case was tried in Campbell. The judge dismissed it and said he wouldn't let such a case go to a jury. And Mr. Atkinson the Solicitor said he wouldn't prosecute such a case, and the jury found a verdict of not guilty. I got out of the crop \$23.09 and the ten bushels of corn that I used in gathering my crop and I told Mr. Barge of that. I got ten bushels of corn and one bale of cotton. When I was put in jail, the corn and fodder and things of that sort, Mr. Barge had it hauled up to his house. I did not get a shuck or a blade of fodder. The corn was worth in the field, about 45 cents, good corn. He swore that I owed him \$110.00 for provisions and \$30.00 for Guano. yes sir, he was asked the price on the stand and he said he got from 5 1/2 to 5 3/4 and 5 and 7/8 along there. I could earn about \$12.00 per month, and get my board. Board is worth about six per month. I could get that a month for my work. Not a bit of work did I do in jail. The only work I did was to get coal and make fires around there for Mr. Adahoe, while in jail. I took sick two or three times, while in jail. I never took no doctors medicine, I don't take that no how hardly. I took sick two or three times in jail, laying on the iron, I was not use to it. yes sir, they put us in the iron cage every night, and I laid on iron. We had a mattress and a blanket. It was cold. There was no way, there was no fire, and then I was surrounded by iron, an iron cage, iron all over us, and we laid on iron, pretty well. In the day time we would have fire, in the night we would have no fire. At 7 1/2 oclock we would go in the cage and stay there until morning. I have nine in family. I ought to have gotten my half of every thing. My half of part of it was 6 bales and that paid me out and over. The six bales that I was entitled to would pay the claim held by Barge against me. I owed him by his own figures \$74.71 for rations and \$30.00 for guano. That is the statement that he gave me when I laid by and went up to his house and he gave it to me with his own fist. I had paid the amount in cotton. Because he allowed me what the cotton was going at, the market price at his gin house. I gathered the crop as fast as I could. I went to work some mornings before the sun was up. I came to Atlanta and consulted two or three lawyers. I did that at the time the crop was in the field. I had brought a suit against Mr. Barge in the Justice Court before I had gathered the crop. There was about a bale or a half a bale in the field, that was all, when I filed suit in the Justice Court. My reason for doing that, Mr. Barge had not papers with him. I had my papers and I told Mr. Estes, I don't deny selling the bale of cotton and I have done paid him all I owed him. I waived committal because Mr. Estes was going to be with Mr. Barge in this case. I know that because I saw it. I waived trial and they fixed the bond so I couldn't give it for the Superior Court. I made no defense whatever. I was in Campbell County when this case was tried and they got a bill against me. I know pretty well all he said on the trial. I have not stated all that he said, I cant state all that he said. I told Mr. Estes that if he would reduce the bond I thought I could give bond. I put up no defense in the Court at all. I come to town once and seen a lawyer to file this suit for a settlement. That is the reason it was not gathered, I entered suit for settlement, and it come off the first Saturday in December. I employed a lawyer and he did not attend the Court. They tried the case. I have got seven (7) children. Only four children big enough to work, but the oldest boy he was married. Mr. Barge simply insisted that I gather all the crop. I didn't do it. I wanted to come to a settlement so I could get my part as we were gathering the crop; that is what

I wanted us to do. If he had paid my part of it up to that time, I wouldn't have refused to gather the rest of it. I didn't refuse to gather the crop, I did not...

W. H. Hill, sworn for plaintiff. Direct examination by Mr. Golightly:

I am a fire insurance agent.

Q. Where? A. Here with the Patillos, and have been here, nearly 9 years. My home is in Palmetto. I was the foreman of the jury that tried this case against Weems. Mr. Barge was the only witness as I remember correctly and he said that the negro had violated the contract made with him and I think he said he had received 12 or 13 bales of cotton and sold it or that he had it at his gin house, and that he had given him credit for that at market price, and that he had him arrested and that he owed him \$25.00 or \$30.00 maybe \$35.00.

On cross examination he was asked questions as to how much stuff he had received and the price of it and I think that run over what he owed him, \$70.00 or \$73.00 or \$74.00. Then he claimed that the negro hadn't cultivated the crop, stating that the contract had been violated. The Court asked him what the contract was in reference to that and I think his explanation was that he had to do the hauling and the selling and that when the crop was gathered and sold that he would then settle with the negro, and the negro refused to do that and violated the contract that he had to do the hauling and that he had Mr. Powell to haul a bale of cotton to some gin, I don't remember whose, and finally he carried the bale of cotton off and sold it and that was the reason he was proceeding against him. On cross examination, I don't remember well, but I think he said \$135.00 for provisions and fertilizers and then he added up the cotton, the corn and the fodder and the shucks and there was a statement of the amount. I am not certain as to the amount but it was considerably over, I think over \$75.00 that he had received. I wrote the verdict in the box by the instructions of the Court, in favor of the defendant. I think he stated on the stand the Weems owed him at the time he hauled away the cotton when he first got on the stand.

W. H. Abbott, sworn for plaintiff: I am a farmer at present, and live one fourth of a mile from Barge. I was at the trial in Campbell Superior Court...I saw the darkies crop. Well the part of the crop next to the house was very good – I will say it was fine for that year. I lived close by there and I know the land pretty well, about what quantity of land it is. I would pronounce it a good crop considering the land. My property is two miles away. I am sorry to state it but the negro made more cotton that I did or as much.

...A.W. Barge, the defendant sworn.

I am a farmer. I did not go before the Grand Jury. Nor did I send any body before the Grand Jury. I was subpoenaed to go to the Superior Court. By the Solicitor general. I think he was arrested on Saturday maybe, any way he was arrested, it may have been on Monday, it was some time during the week. I don't recollect exactly about any suggestion....I swore it our because I thought he had taken off my cotton for something that was not due him and that he was trespassing upon my rights. He had been to me for a settlement for some time. I told him I wanted him to gather the crop up, that I would settle with him as soon as he got the crop out...He said he wanted a settlement, that he wanted a settlement, and he wanted to sue me or something of the kind. He was to have half the crop. The contract was that I was simply to give him one half he made. Of course I was to have pay for rations and guano. He as to have one half after the expenses were paid. I could not tell how much corn and cotton he was entitled to until it was gathered....When I

swore out that warrant I expected to have him arrested. And I knew that in the event the Court bound him over that he would have to give bond to go to the Superior Court I knew that. I knew if they bound him over and he didn't give bond he would have to go to jail. He didn't first say that he thought \$100.00 bond would do I did not tell Mr. Roberts that I would like to have the bond fixed big enough to put him in. Well, I told him as I said awhile ago that I saw where the Justice Courts here in town in such cases had required such bonds, that is just the suggestion I made to him...