

2.

The Commissioner of Pensions,

Sir:

Harriet, as alleged widow of John Wesley, formerly a private in Company "E" 39th United States Colored Volunteer Infantry, filed her application under the act of June 27, 1890, on January 26, 1894, claim being rejected on October 22, 1898, on the ground that claimant was not the lawful wife of soldier at the date of his death. An appeal was filed on December 12, 1898.

The facts brought out at the special examination, and not denied by appellant, are practically as follows: The within named soldier married one Caroline, both being slaves, according to slave custom in the year 1854, and continued to live in such marital relation until their emancipation. After they became free they continued to live in said marital relation up to the year 1878, raising a family of four children. On said last mentioned date the soldier abandoned Caroline, and a ceremonial marriage was performed between him and this claimant on July 9, 1878. Caroline died in 1888, and the soldier died on January 7, 1894. All of the above occurred in the State of Maryland.

The appeal contends that, as a matter of law, the marital status of the soldier and Caroline was a void one, and that the claimant herein is the only legal wife the soldier ever had.

Every phase of the issue herein involved was discussed in the opinion in the case of the father of Alexander Tuttle (11