

NATIONAL BANK *v.* INSURANCE COMPANY.

Where the record has not been printed, a motion to dismiss an appeal or a writ of error will not be considered where there is any question about the facts on which the motion rests.

MOTION to dismiss an appeal from the Circuit Court of the United States for the Eastern District of Missouri.

*Mr. James O. Broadhead* in support of the motion.

*Mr. Lucien Eaton, contra.*

MR. CHIEF JUSTICE WAITE delivered the opinion of the court.

The further consideration of this motion is postponed until the case is heard on its merits. The record has not been printed, and counsel do not agree as to what it contains. We will not decide motions to dismiss before the record is printed, when there is any question about the facts on which the motion rests. In order to get a decision before printing, the motion papers must present the case in a way which will enable us to act understandingly without referring to the transcript on file.

TILLSON *v.* UNITED STATES.

Where the claim of a party for loss and damage growing out of the alleged failure of the United States to perform its contracts with him, as to time and manner of payment, is, by a special act of Congress, referred to the Court of Claims, "to investigate the same, and to ascertain, determine, and adjudge the amount equitably due, if any, for such loss and damage," — *Held*, that the rules of law applicable to the adjudication of claims by that court in the exercise of its general jurisdiction must govern, and that interest, not having been stipulated for in the contracts, cannot be allowed thereon.

APPEAL from the Court of Claims.

This was a suit brought by Robert Tillson & Co. against the United States.

The Court of Claims found the following facts: —