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APRIL 5TH, 1905.

DIVISIONAL COURT.

HENDERSON v. STATE LIFE INS. CO. OF INDIAN-
APOLIS.

Life Insurance—Withdrawal of Application before Acceptance—Return of Premium—Contract—Interim Receipt.

Appeal by defendants from judgment of County Court of Wentworth in favour of plaintiff in an action for the return of a life insurance premium paid by plaintiff to defendants.

W. H. Hunter, for defendants.

G. H. Levy, Hamilton, for plaintiff.

The judgment of the Court (MEREDITH, C.J., TEETZEL, J., CLUTE, J.), was delivered by

MEREDITH, C.J.:—On 19th May, 1904, plaintiff signed a written application to defendants for an insurance on his life of \$10,000, and on the same day paid to the local agent of defendants \$51.90 and gave him his (plaintiff's) promissory note for \$300, the two sums making up the amount of the first annual premium, for which he received the company's receipt in full, stating: ". . . The insurance will be in force from the date of approval of the application by the medical director. In case the policy should not be issued, the money paid will be refunded: provided, a completed application for such insurance is made and submitted to the com-