LAWSON *vs.* HAYDEN.

An agreed statement of facts, signed by the counsel of the parties, filed in the cause, and the filing noted of record, does not thereby become part of the record, not being made so by bill of exceptions or order of the court; and the court below, sitting as a jury, having determined the case upon such agreed statement, and it not having been made part of the record, this court will not look into it for the purpose of reviewing the decision, but the presumption of law being in favor of the correctness of the judgment of the court below, will affirm it.

Appeal from Pulaski Circuit Court.

WATKINS & CURRAN, for the appellant.

F. W. & P. TRAPNALL, for the appellee.

Mr. Justice WALKER delivered the opinion of the Court.

This was an action of *assumpsit,* to which the general issue was pleaded. The case was submitted to the court by consent upon an agreed statement of facts, and the issue therein found for the defendant. No bill of exceptions was filed to the opinion of the court, nor was there a motion for a new trial made. There is a paper copied into the record, marked filed by the clerk and subscribed by the attorneys, purporting to be an agreed statement of facts submitted to the court, and the record also states that an agreed statement of facts was filed, and that the case was submitted to the court.

The question is, shall we consider this paper part of the records in the case? The case of *The Real Estate Bank vs. Rawdon et al.,* (5 *Ark. R.* 558,) furnishes no precedent for so loose a practice. There, the facts submitted were preserved of record by a bill of exceptions; and the rule established in the case of *Lenox*

vs. Pike, (2 *Ark. R.* 20,) and numerous decisions since, has established a different practice.

The paper purporting to be an agreed statement of facts, was not made part of the record by order of court, bill of exceptions, or otherwise. The mere filing a paper, does not make it a part of the record. Bonds for costs, and other papers filed under the requirements of a statute, and an entry thereof made of record, have repeatedly been held no part of the record unless made so by bill of exceptions. 5 *Ark. R.* 264. 1 *Eng.* 434.

We have neither evidence nor facts from which to determine whether the court decided correctly or not; and the presumptions of law being in favor of the correctness of the decision of the Circuit Court, we must affirm the judgment. Let the judgment be affirmed.

WATKINS, C. J., not sitting.