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EVIDENCE BY THE NORMAL BOND

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Abstract:

Trust in normal bonds is not the same as trust in official bonds, because normal bonds are issued directly by the concerned parties, without the interference of the public official responsible for them. Therefore, there is no reason to prefer the statement or claim of one of the opponents before the judiciary over the other. So anyone presents written evidence against his opponent may face by denying it to the opponent, or challenging the forgery in the bond, especially the legislator did not stipulate a specific form for normal bonds.

The legislator must establish a specific form for normal bonds within the conditions required by the normal bond in evidence , and that is made it permissible to challenge the normal bond through forgery and not just by denial as in official bonds, given that it is possible to forge the signature or handwriting.

Keywords: Normal bond, Official bond and judicial evidence

Introduction

The rules of proof are of great importance from a theoretical and practical aspect, although proof is not a pillar of the right, it is the foundation of the right and it is a complex to benefit from it, so the right loses its value from a practical aspect if it lacks evidence, so the right that has no evidence is equal to the right that does not exist.

Modern societies had rejected the principle of individual revenge, and the person's claim to his rights, so the state was entrusted with the duty of adjudicating disputes that exists between individuals through the state's judicial authority. Thus, the individual interests like rights and preserved them from assault were achieved, in addition to the general social interest of preserved stability of transactions.

Here the special importance of written evidence is evident because of its effective role in guaranteeing and proving rights, and the Almighty's saying is sufficient for this: "O you who believe! When you contract a debt for a fixed period, write it down." (Surat Al-Baqarah: 282)

So by writing, both legal actions and material data are recorded and preserved. If someone wants to keep evidence for himself of the legal actions he concludes, the best way for him to do so is to resort to writing, because it possesses advantages and characteristics that enable it to occupy the forefront among legal evidence.

perhaps, one of the most prominent and common written pieces of evidence among individuals are the normal bonds prepared by the parties among themselves to prove the legal actions that take place between them, because they are far from the formalities such as those required in official bonds, which cause individuals to refrain from resorting to them, except in cases that are very important or when trust is weakened or lost between the contracting parties.

The study has a great importance in explaining proof using normal bonds, by explaining these bonds, their characteristics, how to use them in proof, and how to challenge them.

The study aims to explain proof by means of normal bonds, how to use these bonds in proof, and the conditions for considering the bond as a normal bond.

The problem of the study arises from the frequent use of normal bonds in practice and the frequent challenge and protest of them in the courts, as well as the failure to search this topic independently.

The researcher used the descriptive analytical method by reviewing the opinions of jurists, analyzing the texts of the laws, and comparing the legislation in question.

The study was divided into two requirements, which are as follows:

The first section: The concept of the normal bond.

The second section: the rule of proving history.

The First Section
The concept of a normal bond

In this section, we will deal with the nature of the normal bond through the first section. Then we will deal with the second section the conditions for creating a normal bond, and we will devote the third section to the validity of the normal bond.

The First Requirement
Definition of the normal bond and its types

A normal bond is a bond that includes the signature of the person from whom it issued, his seal, or his fingerprint, and it does not have the status of an official bond. That is, it is the bond that is issued by individuals without the public employee interfering in issuing it. It is of two types: a normal bond prepared for proof, and this one is signed by concerned people. The matter is considered prepared evidence or complete evidence, and is a normal bond not signed by the concerned people prepared for proof, such as a merchant's book and household papers. Therefore, the law gives it authority in proof that varies in strength and weakness according to the elements of proof it contains.

Normal bonds are characterized by speed in writing and preparation and low costs, so people resort to them as a means of proof, in order to preserve their rights. It has become the custom among merchants to write most commercial papers on normal bonds, because the official form is not agreed with the requirements of speed that characterize commercial life [(1)].Article Nine of the Syrian Evidence Law defines the normal bond as the bond that includes the signature of the person from whom it issued and does not have the characteristic of an official bond, and this is also stipulated in Article (10) of the Jordanian Evidence Law [(2)].

As for the Iraqi Evidence Law, it does not have a definition for the normal bond, as is the Egyptian Evidence Law. However, the normal bond is defined as: (writing signed by a person intending to prepare evidence of the contract or the legal action it entails, without the interference of a competent public official in its writing) [(3)]. It is noted from this definition that the presence of writing and signature is required for a normal bond to be created.

The normal bond is called by the Kuwaiti legislator the customary paper. The paper is considered customary according to the text of Article (13) of the Evidence Law. It is every paper issued by the person who signed it unless he explicitly denies what is attributed to him in terms of handwriting, signature, seal or fingerprint.

The bond was called customary because the public authority does not interfere or mediate in what was agreed upon between individuals. Therefore, the customary bond is subject to the rule of habit and custom.

There are two types of the normal bonds (customary):

1 -Customary bonds prepared for proof: therefore, they are signed by the person against whom they are evidence

2- Bonds not prepared for proof: These bonds are not prepared as a basis for proof, such as merchants' books, letters, and household papers. These bonds are often not signed, but the legislator gives them strength in proof that varies in strength or weakness according to the elements of proof available in them.

The Second Requirement
Conditions for creating a normal bond

To create a normal bond, two important conditions are required:

First: the condition of writing

In order to create a regular bond, the existence of writing is required. Without writing, there is no bond, and therefore the legal action remains confined between its parties, and is not possible in the event of a dispute between them. Providing evidence of the existence of legal action and that the signature was only requested as approval or verification of what is written in the bond and obligation to it [(4)].

The important thing in writing is that it proves a legal act, and there is no special form or formula in the writing. It is required that the writing must be serious and it is sufficient that the agreement concluded between its signatories be included in clear terms indicating their intended meaning [(5)].

It is customary, the bond can be written by ink on a paper, because the pencil may easily erase it, and writing in ink is more durable over time.

([1]) Muhammad Abbas Hussni, Commercial Papers, Cairo, Dar Al Nahda Al Arabiya, 1967. P.48

([2]) Article (10) of the Jordanian Evidence Law states that "a normal bond is one that includes the signature of the person who issued it, oror his seal or fingerprint, and does not have the status of an official bond."

([3]) Mahmoud Gamal El-Din Zaki, General Principles in the Theory of Evidence, Cairo, Dar Al-Nahda Al-Arabiya, paragraph 660, p. 1064 .

Collection, Issue 1/1988 dated 9/21/1988. Judicial Rulings Article551/Court of Cassation Decision No.) [4](No. 3, 1988, p. 67

([5]) Court of Cassation Decision No. 551/Article1/1988 dated 9/21/1988. Judicial Rulings Collection, Issue No. 2, 1988, p. 73

The writing may be on pasteboard, wood, or fabric and it may be in the form of an inscription, or in an ancient language, or with special symbols, provided that the two parties maintain a key to these symbols approved by them(6). It may be written by hand, by typewriter, or in the form of a pre-prepared model form. The empty spaces are recorded with the required information, as in the lease contract (7).

It is not required that the writing be in a signed handwriting. Rather, it is permissible for the bond to be written in the handwriting of another person, even if he lacks legal capacity, because it is only a tool expressing the will of the signer of the bond. The Egyptian Court of Cassation ruled that "proving the validity of the signature on bond makes it, according to what is stated in it, evidence against its owner, regardless of whether the bond is written by notary or written by his own hand " (8).

Second: The signature condition

The signature implies the assertion that the normal bond was issued by the signatory, even if it was not written in his handwriting, and that his will was directed towards adopting the writing and adhering to it (9).

The normal bond derives its proof of proof from the signature alone. If the bond is devoid of the signature of one of the contracting parties, it has no authority before it.

It is understood from the text of Article (25/First) of the Evidence Law that the signature is by written signature or fingerprint.

A- Signature (Written Signature)

Signature, written signature, means every written sign or term that a person chooses for himself, of his own accord, to express the issuance of the bond from him and his approval of what is stated in the bond and its contents (10).

The signature is the cursive writing in the hands of the person from whom it is issued (11). The original is that the normal bond is signed with a written signature, and the Evidence Law cancelled the seal in accordance with Article (42/Second) of it, which stipulated (bonds that are attached to personal seals are not approved), because these seals are vulnerable to imitation, forgery and loss, and it can be used by others without the need to remove it from the possession of its owner (12)

The signature must be issued by the person obligated to the content of the normal bond personally, that is, by himself, by his name, and by his handwriting. As for the agent, he signs by his personal name, mentioning his capacity as agent. The signature is a personal act in which it is not permissible to be authorized (13).The Court of Cassation ruled that (the normal bond signed by the agent of the legator of the two litigants parties, which includes

(6) Abbas Al-Aboudi. The importance of normal bonds in judicial evidence, Master's thesis submitted to the Council of the College of Law, University of Baghdad, 1984 ,p.19

(7) Dr. Akram Ya Maliki, Commercial Law. Commercial Papers, Times Press 1978, p. 32

(8) Abbas Al-Aboudi, The Importance of Normal Bonds, p. 19

(9) Muhammad Abd al-Latif. The Law of Evidence in Civil and Commercial Matters, Egyptian Universities Publishing House, Cairo 1972, p. 120.

(10) Dr. Fawzi Muhammad Sami and Dr. Faiq Mahmoud Al-Shamaa. Commercial Law, Commercial Papers, Dar Al-Kutub for Printing and Publishing, University of Mosul 1988, pp. 63-64 .

(11) Abdul-Wadud Yahya. Lessons in the Law of Evidence, Cairo, Dar Al-Nahda Al-Arabiya, 1970, p. 45.

(12) Egyptian Cassation 1/7/1981 Appeal 127 - 41

(13) Sulaiman Marcus, Principles of Evidence and its Procedures in Civil Matters, Alam Al-Kutub, Cairo, 1981, paragraph 65 194.

the occupation of their legator's patrimony to the value of construction materials, is not valid because it was not signed by their legator or is officially dated) [14].

B- Thumbprint.

Article (42/First) of the Evidence Law stipulates that signing a bond with a thumbprint is not valid unless it is done in the presence of a competent public official or in the presence of two witnesses who signed the bond. This text was amended pursuant to Law No. (46) of (2000) so that it became as follows: (If the opponent denies the thumbprint attributed to him on the bond, this bond will not be taken into account unless it is proven by the presence of a competent public official or in the presence of two witnesses who signed the bond.)

It has been scientifically proven that two fingerprints cannot apply to two different people in the world. Just as two fingerprints cannot apply to one person, as each person's fingerprints are distinguished by special characteristics that are unique for him, unlike any other person in the entire world [15].

The reason for the law's requirement that a thumbprint be placed on the bond in the presence of a competent public official or in the presence of two witnesses who sign the bond is to protect illiterate people who do not know how to read and write [16] .

The text came at all without specifying the right or left hand, but it is customary to use the thumbprint of the left hand, due to the clarity of the lines drawn on the skin crust, more than those the right thumb carried, as a result of the latter being exposed to constant friction as a result of its common daily use [17].

The Third Requirement

Res judicata (claim preclusion) of the normal bond

The res judicata of a normal bond varies with respect to its two parties and with respect to third parties, as well as with respect to third parties, as the normal bond is considered to have been issued by the one who signed it unless he explicitly denies what is attributed to him in terms of a handwriting or the signature of a thumbprint [18]. The validity of the normal bond is a simple presumption that can be lost through denial [19].

Anyone the bond is attributed to him, if he makes an explicit acknowledgment with his signature, then the normal bond has evidence and becomes an official bond [20], and therefore it is not permissible to challenge it except through forgery. If the name of the creditor is not mentioned in the debt bond, this bond does not lose its evidence, as long as the creditor is the bearer of the bond, the debtor has acknowledged his signature on it, and the facts of the case prove that the bearer is the creditor [21].

However, if the person to whom the bond is attributed denies the validity of the signature or thumbprint, with the condition that the denial be explicit and clearly determined, then the bond becomes devoid of probative force, and the

(14) Al-Sanhouri, Abd al-Razzaq Ahmad, Al-Wasit in Explaining the New Civil Law, The Theory of Obligation in General, Sources of Obligation, Egyptian Universities Publishing House, Cairo, 1952, Paragraph 106, p. 178

(15) Dr. Fawzi Muhammad Sami and Dr. Faiq Mahmoud Al-Shamaa, pp. 96-99.

) 16(Tawfiq Hassan Faraj, Rules of Evidence in Civil and Commercial Matters, Culture Foundation, Beirut 1970, p. 125.

(17) Al-Nadawi, Adam Wahib, The Role of the Civil Judge in Proof, Baghdad, Arab House for Printing and Publishing, 1976, p. 93.

(18) Article (25/First) Iraqi evidence. See Articles (14) Egyptian evidence, (10) Syrian evidence, and (11) Jordanian evidence, with recognition of fingerprints and rings.

(19) Al-Nadawi, Explanation of the Law of Evidence, Arab House for Printing and Publishing, Baghdad, 1986, p. 94

(20) Sulaiman, Markos. Written Evidence and its Procedures in Arab Legislation, Cairo, Institute of Arab Research and Studies, 1967, p. 169.

(21) Court of Cassation Decision No. 530/Civil Transfer/84-1985 on 2/19/1985. Collection of Judicial Rulings, Issues One and Two, 1985, pp. 54-55.

burden of proof shifts to the plaintiff who signs on him the burden of establishing evidence of the validity of the attribution of the bond to the signer [(22)].

Likewise, if the normal bond is acknowledged by the person to whom it is attributed, or its attribution to him is proven after denial, everything contained in it (except the date) is considered evidence against both parties to it and third parties, as is the case with the official bond [(23)]

The normal bond on which the res judicata of the signature is determined shall have the validity of the official bond itself, and its reversal may be proven other than by challenging forgery. Its reversal or what contradicts it may be proven in accordance with the general rules which stipulate that it is not permissible to prove what contradicts the writing between retirees except by writing. The normal bond that was drawn up without the intervention of a public official, its power evidence may not exceed the authenticity of what the public official records in an official bond on the lips of the concerned parties.

The Second Section
The Rule for proving date

The rule of proving the date is not a rule of public system, but was established to protect others from the risk of advancing or delaying the dates of these bonds. Therefore, the judge does not have the right to apply this rule willingly. The third party for whose benefit the rule was established may admit the validity of the customary date recorded in the normal bond used as evidence against him or waive adherence to the rule, whether the waiver is explicit or implicit, and it is also permissible to agree to violate it explicitly or implicitly. It is also permissible for the person who has the right to hold on to it to waive it, and if the bonds are devoid of any evidence that the appellant had previously claimed before the trial court, as Article 15 of the Evidence Law indicates regarding the requirement of the fixed date in the normal bond to be evidence against others, It is not permissible for the appellant to adhere for the first time before this court, by the violation rule of evidence. In the first section, we will deal with the mechanism of establishing history, then we follow it with a second section, which we devote to clarifying the concept of third parties, and finally, we present those who are not considered the third parties, in a third section.

The First Requirement
Mechanism for proving date

A normal bond shall not be considered evidence against others regarding its date unless it has a fixed date. The date of the bond shall be fixed in one of the following cases:

1- From the day it is authenticated by the notary public. The normal bond shall be dated from the date of its registration in the Notary Public Department, or the payment of the fee for its authentication, and it is not permissible to prove the opposite of this date except by alleging forgery.

2- From the day the guarantee was recorded in another paper with a fixed date: The Court of Cassation ruled (if the bill of sale was confirmed and guaranteed in another paper with a fixed date, the sale with a fixed date is considered official) [(24)]. It is not enough to simply refer to the bond. Rather, it is necessary to mention the essential data in the bond, such as mentioning the agreement, the date it was released, the names of the contracting parties, and the price. It is necessary to mention a summary of the bond and the necessary data for the assignment in a sufficient manner that removes all doubt [(25)]. However, it is not necessary to include the entire text or entire phrases [(26)]. Rather, it is sufficient for the content of the bond to be recorded in another paper with a fixed date, such as an official warning, a judicial memorandum, a session record, official investigative papers, a seizure record, or a record of the release of an estate [(27)].

3- From the day it is marked by a judge or a competent public official: If the normal bond is presented to a competent public official or a judge and he marks it, while performing his job duties, indicating the date the bond was presented to him, then this date is fixed for the normal bond, and the marking is not taken into account the expert on

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([22]) Sulaiman , Markos, Written evidence, ibid, p. 171

([23]) AL -Aboudi, The Importance of Normal Bonds, previous source, p. 76

No. 4, Year /1970 dated 11/11/1970 Judicial Magazine. Issue Jun.Court of Cassation Decision No. 117/)[24](

25, p. 146

([25]) Muhammad Abdul Latif, Law of Evidence in Civil and Commercial Matters, Paragraph 170, p. 176

([26]) Sulaiman , Markos, Principles of Evidence, previous source, paragraph 84, p. 267

[27]() Hussein Al-Moumen, The Theory of Evidence - The Evidences or Written Evidence, Dar Al-Kitab Al-Arabi, Cairo 1948, Vol. 3, pp. 388-389.

the bond for this purpose [28].If the normal bond was previously presented to the court and the person presenting it was fined a stamp duty fine, then its date is proven from the date the fine was paid [29].

4 -From the day of the death of a person who had a handwriting or signature on the bond, or the impossibility of writing or imprinting due to a defect in his body:

If a person has a recognized effect, such as a handwriting, signature, or thumbprint, on the bond and then dies, the bond is considered issued before the date of death. Likewise, if it is impossible for one of these people to write or fingerprint due to his being afflicted with a disability, illness, amputation, or paralysis on a specific date, then this is considered conclusive. This indicates that the bond was issued in a date before the onset of disability, meaning that the date of death or disability is considered a fixed date for the bond [30].It is not necessary for the deceased to be one of the contracting parties or his representative. The death of a witness to the contract or a guarantor is sufficient for the contract to have a fixed date, which is the date of this death [31].

5- From the day of the occurrence of any other circumstance that is conclusive in the bond, it has been issued before its occurrence. Thus, the cases mentioned above are included, but are not limited , and an example of the circumstance is if a person signs a normal bond and then becomes insane after that, then on the day on which it is proven Hospital admission, the bond date is fixed [32].

Likewise, in proving the ancient date, it is sufficient to issue the bond to one of the state departments, or submit it in a case, and take it up as a plea in the session in which that case was considered, or the issuance of a written confession from the person who maintains that the date of the bond is not proven by the existence of a previous date, or that the bond mentions the fact that the price specified in it was paid with an instrument bearing A specific number and date, and proof that this instrument was disbursed by the drawee bank on its date [33].

If the date of the normal bond is proven in one of the cases mentioned in Article (26) of the Evidence Law, then this date will be evidence against the third party and shall apply to him from the time when the date was considered established, not from the date recorded on the bond. The place for claiming that the date is not proven must be for someone other than in good intent, who is not aware of the act that proves that the date is not confirmed, but if the special successor or the seizing creditor knows the time the right was transferred to him or the time the seizure was signed. .. With the disposal of the money that was transferred to him, or on which he was seized, he is in bad faith, and he cannot cling to the fact that its history is not proven, but the principle is good intent, so whoever claims bad intent, unlike him, must provide evidence for what he claims [34].

There are cases in which the normal bond has an argument against others despite the fact that its date is not proven as mentioned above. These cases are:

1- If the normal bond was not originally prepared to prove the legal actions, and therefore the household papers and commercial books are no longer a source of proof, but rather the legislator made them permissible for the value of the normal bonds [35].

2- If the law does not require writing for evidence, such as legal actions whose value does not exceed fifty dinars, which may be proven by testimony and presumptions. Therefore, if normal bonds are issued to prove these actions, it is not required to prove the date [36].

3- Receipts: Article (26/Second) of the Evidence Law stipulates that (however, the court may, depending on the circumstances, not apply Paragraph (Firstly) to receipts, in order to take into account practical necessities and remove

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(28) Al- Aboudi,The Importance of Normal Bonds, ibid, p. 88

(29) Cassation Decision No.760/Transferred/87-1988 on 1/30/1988, Judicial Rulings Collection, First Issue 1988, p. 74.

(30) Al-Sanhouri, ibid, paragraph 126, pp. 241-242.

(31) Muhammad Abdul Latif, Law of Evidence, ibid, Vol. 1, p. 179

(32) Al-Aboudi, The Importance of Normal Bonds, ibid, p. 89

(33) Sulaiman, Markos, Principles of Evidence , Previous source, paragraph 87, pp. 273-274

(34) Mahmoud Gamal El-Din Zaki, General Principles in the Theory of Evidence, ibid, paragraph 664, p. 1076

(35) Adour Eid, Rules of Evidence in Civil and Commercial Cases, Vol. 1, Al-Nashr Press, Beirut 1961, p. 255.

(36) Tawfiq Hassan Faraj, Rules of Evidence, ibid, p. 94

embarrassment of people in dealing, as receipts are written largely in the practical life of simple operations .So that the creditor may neglect to fix the date on the receipt, or the debtor may not ask the creditor to fix the date on the receipt [37].

The Second Requirement
Who are considered the third parties?

A third party is every person who is not a party to the normal bond or a representative therein, and who can be invoked against it because of the fact that he obtained, by virtue of an action issued by one of the contracting parties to the bond or by virtue of a provision in the law, a special right related to a specific property from the funds of the person obligated to this bond in a way that affects this right. The action recorded in the normal bond, even if it is true, its date is prior to the date of this right [38].

Likewise, the persons mentioned in the following are considered third parties with respect to the date of the normal bond:

-The special successor: He is everyone to whom a special right or specific property has been transferred, such as the buyer.[39]

- Attachment of creditor: is the one whose right is concentrated in a particular property of the debtor's property, by taking an implementation procedure [40]. The law protects him from the actions of his debtor following seizure, so he is considered a third party.

- The mortgagee creditor: If the date of the mortgage is officially established and prior to the date of those debts, it is not enforceable against him [41], and the creditor who files a lawsuit for the invalidity of the actions (indirect lawsuit) and seizes the money for which he filed the indirect lawsuit [42]. Not considered a third party are anyone who was a party to the normal bond (in person or by his representative), the heirs of the pensioner (general successor), those to whom a common share of the estate was legated, and the ordinary creditor who has only a general guarantee on the debtor's money, and therefore the debtor's actions are valid against him even if they are not fixed in date [43]

The Third Requirement
Who is not considered a third party?

The two parties to the bond are not considered third parties, as the normal bond is considered to have been issued by the person who signed it unless he explicitly denies what is attributed to him in terms of handwriting or a signature or a thumbprint. The validity of the normal bond is a simple presumption that can be lost through denial.

Anyone the bond is attributed to him, if he makes an explicit acknowledgment with his signature, then the normal bond has evidence and becomes an official bond [44], and therefore it is not permissible to challenge it except through forgery. If the name of the creditor is not mentioned in the debt band, this bond does not lose its evidence, as long as the creditor is the bearer of the bond , the debtor has acknowledged his signature on it, and the facts of the case prove that the bearer is the creditor [45].

However, if the person to whom the bond is attributed denies the validity of the signature or thumbprint, provided that the denial is explicit and clearly specified, the bond will become devoid of probative force, and the burden of evidence shifts to the plaintiff, who bears the burden of providing evidence of the validity of attributing the bond to the signatory [46].

The person to whom the normal bond is attributed may remain silent, and this silence is considered an acknowledgement, as Article (39/First) of the Evidence Law states that (If the plaintiff produces a normal bond to

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(37) Tanago. Sameer Abdel Sayed, Theory of Commitment, Alexandria, Dar Al-Ma'rifah Al-Jami'iyah, 1993, paragraph 502, p. 719

(38) Sulaiman, Markos, Written Evidence, previous source, p. 205

(39) Articles 363, 1344 and 1354 of the Civil Law

(40) Al-Sanhouri, General Theory of Obligation, ibid, p. 501

(41) Sulaiman, Markos , Written Evidence, ibid, p. 207

(42) Professor Abdul-Baqi Al-Bakri, Explanation of the Iraqi Civil Law, Vol. 3, Implementation of the Obligation, Al-Zahraa Press, Baghdad, 1971, p. 273

(43) Al-Sanhouri, Al-Wasit in Explanation of the New Civil Law, ibid, paragraph 119, p. 202

(44) Sulaiman Markos, Written Evidence, ibid, p. 169

(45) Court of Cassation Decision No. 530 / Civil Transfered / 84 - 1985 on 2/19/1985. Collection of Judicial Rulings, Issues One and Two, 1985, pp. 54 - 55

(46) Sulaiman Markos. Written evidence, ibid, p. 171

prove his claim, it shall be presented to the defendant, and he may admit his signature or thumbprint or deny it, and his silence shall be considered an acknowledgment). Whoever does not want to admit the bond must explicitly deny what is attributed to him of handwriting or signature, and if he refuses, the normal bond must be admitted, and it has been admitted by law [47].

This does not prevent the declarant the validity of the material bond from challenging it, nor does it affect the formal or subjective proofs that the person who admitted the normal bond without reservation may adhere to it, because the acknowledgment in this case is considered to be focused on the relation of the bond to its signatory only, without prejudice to the right to challenge the validity of its content or to adhere to proofs related to the origin of the established right [48].

If the opponent acknowledges the ownership of the thumbprint in the normal bond and claims his ignorance of its content and his failure to receive its amount, he must be required to prove his payment, and if he is unable to do so, he shall be granted the right to have his opponent swear the decisive oath [49].

CONCLUSION

At the end of the research, we reached the following results and recommendations:

1 .Written evidence, including normal bonds, occupies the forefront of evidence as direct and absolute evidence with binding authority for the judge.

2 .The importance of normal bonds in evidence comes from the many problems in practical life, the most prominent of which are the problems related to the validity of these bonds and their role in civil evidence in light of legislation and laws.

3. Trust in normal bonds is not like trust in official bonds, as normal bonds are issued directly by the concerned parties, without the intervention of the competent public official. Therefore, there is no reason to prefer the statement or claim of one of the opponents before the judiciary against the other. Whoever presents written evidence against his opponent may face the opponent’s denial of it, or a challenge to the forgery of the bond, especially since the legislator did not stipulate a specific form for normal bonds.

Second: Recommendations.

1 .We recommend that the legislator establish a specific form for normal bonds within the conditions required by the normal bond in proof.

2. Make it permissible to challenge the normal bond by forgery and not only by denial as in official bonds, considering that it is possible to forge the signature or handwriting.

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(47) Muhammad Kamal Abdel Aziz, Civil Code in Light of Judiciary and Jurisprudence, Cairo, 1985, p. 354

(48) Al-Sanhouri, Theory of Obligation, ibid, p. 195

(49) Basra Court of Appeal Decision No. 119/T. B/1980 dated 7/3/1980, Al-Waqa’i’ Al-Adliya Magazine. Issue (28) 1980 p. 498

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Second: Thesis

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