

**Opinion No. 54-5969**

June 10, 1954

**BY:** RICHARD H. ROBINSON, Attorney General

**TO:** Beatrice B. Roach Secretary of State Santa Fe, New Mexico

{\*427} In your letter dated June 7, 1954, you request an opinion regarding the legality and validity of a wife notarizing papers of a partnership composed of her husband and another partner. The general rule regarding this matter is stated in 39 Am. Jur., Notary Public, § 23, p. 220, as follows:

"One who is a party to an instrument, no matter how small or nominal is his interest therein, cannot act as a notary public with reference thereto, hence, one copartner cannot as notary public, take the oath of his copartner in a matter in which the firm is interested.

"On the other hand, mere relationship to a partner does not disqualify a notary, \* \* \*."

If the husband's partnership interest is community property, the wife of course would own one-half of such interest and, in effect, would be a partner herself. In such a case, the wife should not act as notary on instruments executed by the partners whether her husband or the other partner.

If the wife does not own any community interest in the partnership, mere relationship would not prevent her from acting as notary upon instruments executed by her husband in which she had no interest.

By: C. C. McCulloh

Assist. Attorney General