alleged each of his co-defendants is usurping and holding.

4. Several causes of action have been improperly united in said complaint, to wit: A cause of action by said Young to determine his right to the office of councilman, with causes of action by Tuddenham and Smith to determine their separate rights to separate offices of councilmen of Salt LakeCity.

The court overruled the demurrer. The appellants failing to answer, judgment was entered in favor of the relators and against the appellants as prayed, and on this ruling and judgment the appellants appeal.

This action is brought by the prosecuting attorney, under sec. 3529—3530, C. L. 1888, to determine the rights of the relators to such office.

By section 1761, C. L. 1888, three councilmen were to be elected from this ward at the same time, each to hold the office for two years; the term commences and ends at the same time. Under the admission in the pleadings the appellants were not elected by a majority of the votes of the ward; but have unlawfully usurped the office, and now hold it against the rights of the people and of the relators, who were each duly elected at such election.

The contention by the appellants' counsel that neither of the relators was elected to fill either one of the particular offices held by any one of the appellants shows that if suit was brought by one of the relators for the position usurped by one of the appellants, great difficulty would be found in ascertaining what particular office or place should be assigned to the claimant, and this contention argues strongly in favor of the judgment asked by the relators, and that it was a proper judgment in their favor.

"When several persons claim to be entitled to the same office or franchise, one action may be brought against all such persons in order to try their respective rights to such office or franchise."

C. L. 1888, Sec. 3534.

The joinder of defendants under this statute was intended to protect the rights of the people and to prevent a multiplicity of actions to determine the same question based upon on and the same, or substantially the same, right, and relating to the same kind or character of office, and where the action and defense would necessarily be the same or involve substantially the same rights.

This is an action wherein the people must necessarily be plaintiffs, and it is difficult to see in what other mode this particular action could be commenced and maintained so as to do substantial justice to all and injustice to none.

The relators were all elected at the same time for the same office or franchise, neither was elected to fill any particular place now held by any particlar one of the appellants; and there could not for that reason be any separate judgment for either relator as against either one of the appellants. There is a joint common usurpation of the office by all the appellants to which the relators have a joint common interest or right by virtue of their election. The action was therefore properly brought by the people in behalf of the three relators against the three appellants, to determine which set of these persons claiming title were entitled to hold the franchise and represent the Fourth Precinct in the City Council.

People vs. Murray, 8 Hunn (N. Y.) 577.

5 Hunn (N. Y.) 42.

Flynn vs. Abbott, 16 Cal. 358.

Palmer vs. Woodbury, 14 Cal. 43.

People ex rel vs. Bynon vs. Page, 23 Pac. Rep. 761.

The demurrer should be overruled. The order and judgment of the Third District Court is affirmed, with costs of both courts.

Judge Blackburn concurred.

Judge Anderson did not sit in this case.

DECISION IN THE SALINE LAND CONTEST.

A strange and unexpected decision has just been rendered by the local United States land officers in the saline land contest of the United States and Jeremy & Co. vs. Alfred Thompson, in favor of the latter. The opinion is given below in full:

IN THE UNITED STATES LAND OFFICE,
SALT LAKE CITY, Utah, June 8, 1891.

The United States and Thomas J. Almy, Thomas E. Jeremy, Jr., and Levi Reed, doing business under the name of Jeremy & Co., vs. Alfred Thompson, involving lot No. 4 of section 18; lot No 1 of section 19, township 1 north, range 2 west; the south one half of southeast quarter and lot 4 of section 13; the northeast quarter, the southeast quarter and lots 1, 2, 3 and 4 of section 24, township 1 north, range 3 west, Salt Lake meridian.

HISTORY OF THE LAND AND STATEMENT OF THE CASE:

The above tracts of land were first entered November 4, 1882, by Levi Reed, under the desert land law. Some time in the fall of 1885 the entry was relinquished and formally cancelled by honorable commissioner's letter "C," of November 24, 1885.

On December 9, 1885, they were again entered under the same law by Fred. R. Madeira.

On August 26, 1887, Alfred Thompson initiated contest, alleging substantially that the entry was fraudulent; that it was made with the understanding that it was to be assigned to other parties and with no intention of reclaiming the land.

A hearing was held at this office February 2, 1888. On the testimony given at that hearing the officers decided the charges sustained, and recommended that before the preference right of entry be granted the successful contestant, investigation be made as to the character of the land. From the decision the defendant made no appeal, but the contestant appealed from so much of it as affected his preference right.

By letter "H" of May 5, 1890, the hon. commissioner ordered the cancellation of the entry and awarded a preference right to the contestant "upon his showing by satisfactory proof to the register and receiver that there are not within the limits of said tract, salines."

On June 11, 1890, and before the contestant had attempted to exercise his preference right, Thomas J. Almy, through his attorneys, Bird & Lowe, filed an affidavit, corroborated by Levi Reed, Thomas E. Jeremy, Jr., J. Fewson Smith, Wm. F. Shelton and A. F. Doremus, alleging that the lands in question were essentially saline lands and had been used for trade and business for many years past. That they were not agricultural lands in character, and could not be reclaimed, and were not therefore subject to entry under the Desert Land law.

When, on July 8, 1890, the successful contestant sought to exercise his right and enter the lands under the Desert Land act, this office, in view of the strong assertions that had been made as to their non-desert character, could only suspend the application and order a hearing to determine the controversy in conformity with the rules governing such cases. Accordingly, a hearing was ordered for August 20, 1890, and all parties in interest notified. On that date the case was called and on affidavit, presented in regular form by the applicant, was continued to November 1, 1890, on which date it was again called, and the taking of testimony continued from day to day until December 1st, and then submitted.

DECISION OF THE REGISTER AND RECEIVER.

The evidence, although voluminous, was pretty closely confined to the one question in controversy, whether the land was so saline in character as to make it beyond the hope of reclamation by the usual methods employed in irrigating and redeeming arid lands. On this question, however, the testimony is so squarely conflicting that it is extremely difficult to arrive at a satisfactory conclusion. Those seeking to establish the saline character of the land introduced some very strong expert testimony tending to show that the soil has become so impregnated with salt as to make it impracticable of reclamation to the extent that it would produce crops, and on account of their theory, and on account of the periodical ebb and flow of the Great Salt Lake, must always remain so. On the other hand, the applicant, by testimony entitled to just as much weight, seeks to establish the fact that by breaking the dams that retain the salt water on the land, allowing this water to seek the now lower level of the lake, protecting the land from future overflow from that direction by a system of dykes or levees, and then to thoroughly "bleach" it out by a plentiful supply of fresh water, which they claim can be had, that it can within a reasonable length of time be reclaimed and made productive. We take it, however, that the result of such an attempt, whether a success or a failure, is after all only a question between the Government and the entryman. If there are any equities in the matter, it appears to us that they are on the side of the applicant, who, through two long and expensive contests, has only contended for his right under the desert land law to endeavor to reclaim arid land. If he fails then, at the end of the statutory period, the Government can cancel the entry. Under all the circumstances, it, in our opinion, would at the present time work a hardship to refuse to allow him the right to make the effort.

The case of the Deseret Salt Company vs. D. P. Tarpy and the Central Pacific Railroad, heard before this office in March, 1887, and decided in favor of the railroad, which decision was affirmed by the Honorable Commissioner, is a somewhat similar case. In both instances the salt water is not a natural exudation of the soil, but is gotten and retained on the land by artificial means until the salt is formed by the solar process. In that case the Honorable Commissioner says: 'The question as to whether this land is agricultural in character as claimed by the contestee, the evidence discloses the fact that a greater part of the land is covered with sage brush, grease wood, shad scale, white sage and bunch grass, and much of the same character of all other land in the Great Salt Lake basin contiguous to these lands in question. That