Buffalo in April, 1910, with his letter to Mr. Garfield in November, 1909, that Mr. Nelson's letter may have had some effect in modifying Mr. Taft's original opinion. We quote a single sentence from Senator Nelson's report:

> The power of the President to reserve public lands from sale and entry rests upon various statutes and upon numerous decisions of the courts, and upon long-established and long-recognized usage.

This general declaration is supported by Senator Nelson by a variety of quotations from United States Statutes, Executive Acts, and decisions of the Federal Courts recognizing this authority in the President. From these quotations we quote one extract from a decision of the Supreme Court of the United States:

> From an early period in the history of the Government it has been the practice of the President to order, from time to time, as the emergencies of the public service required, parcels of land belonging to the United States to be reserved from sale and set apart for public uses. The authority of the President in this respect is recognized in numerous Acts of Congress.

We think that the Acts of Congress and the decisions of the courts referred to in this decision of the Supreme Court, and by Senator Nelson in his report, abundantly justify his conclusion "that the President of the United States has the inherent power to reserve for public purposes lands of the United States from location, sale, or entry." But as the present President entertains apparently some doubt of his authority, and as no man can be expected to exercise whole-heartedly a power concerning the lawfulness of which he has some doubt, we agree with Senator Nelson, with Mr. Garfield, and with Mr. Pinchot in hoping that Congress will pass, not an Act *authorizing* the President to exercise this power, but one declaring that he possesses it—the Senate bill recommended by the Senate Committee, which is declaratory simply: "That the President may at any time in his discretion withdraw from settlement, location, sale, or entry any of the public lands of the United States and reserve the same for forestry, water power sites, irrigation, classification of lands, or other public uses to be specified in the order of withdrawals," and report the same to Congress. The Outlook agrees with President Taft, who, in his St. Louis speech, urged this policy on the Congress:

> As concerns Congress at this time, Conservation resolves itself into the necessity of passing at once the bill which will give to the Executive unquestioned authority to withdraw lands for power sites and other purposes. With this power in the hands of the President, we can sit comfortably by and discuss and devise the best means of disposing of the great public domain for the benefit of present and future generations.

Regulars, Insurgents, and Democrats should unite in passing at once the Senate bill declaring that the President possesses this power. The Congress can then take up in more leisurely fashion the question what disposition shall be made of such lands, a question which it will be powerless even to consider if once the lands are taken up by private persons under existing laws.

SUBTRACTIONS FROM THE RAILWAY BILL

In the public interest, the laws regulating railways need amendment and expansion. Two subjects under this general head are traffic agreements and mergers. As to these the Republican Insurgents and Regulars in Congress seem at loggerheads. Last week, in both the Senate and the House of Representatives, a coalition of Insurgents and Democrats had its way with these Railway Bill subjects. In the Administration's bill, now pending in both houses, they eliminated the sections providing for traffic agreements and mergers. Traffic agreements by which two or more railway companies agree to maintain specified rates for the transportation both of passengers and freight are necessary if the complicated duties of our railways are to be successfully fulfilled. Despite the present law forbidding them, "gentlemen's agreements" have persisted, and apparently cannot be prevented. Why should they be secret and surreptitious? Why not have them open and lawful and their terms filed with the Inter-State Commerce Commission? This has been favored by Presidents Roosevelt and Taft, was distinctly promised in the Republican party platform adopted nearly two years ago in Chicago, and found place in its Presidential candidate's speech of accept-

ance. The bill submitted by the Taft Administration to Congress allowed such agreements, but only if approved by the Inter-State Commerce Commission. But it did not provide for the Commission's approval of the agreements *in advance of* their filing. An amendment making such approval a prerequisite was rejected by the Regulars, whereupon the Insurgents and Democrats, with possibly the secret aid of certain Regulars, brought about the rejection of the entire section. Then they did the same thing with the merger section. It prohibits the acquirement of competing lines, except where a railway company already owns half of the capital stock of the line to be acquired. Apparently its only effect would be to continue or strengthen an already existing control. But the Insurgents, aroused by reports that certain companies were seeking to purchase more than half of the stock of competing companies before the bill should pass, defeated this section. It would be a simple matter to confer on the Inter-State Commerce Commission powers analogous to those now successfully exercised by the New York State Public Service Commission. We suspect, however, that certain Senators, both Insurgents and Regulars, who professedly favor the bill, have given to it but half-hearted support. While the Railway Bill has been thus shorn of two sections, other sections have been added. In the House the measure now includes a long-and-short-haul section (that is, the prohibition of higher proportionate rates for a short than for a long haul), a section bringing telegraph and telephone companies under the term "common carrier," and a section providing for the physical valuation of railways. The latter two amendments are of doubtful value, but the long-and-short-haul we believe to be absolutely just, as we do the clauses providing for the establishment of an Inter-State Commerce Court, and ordering carriers to quote rates correctly to shippers, and empowering the Commission to hold investigations on its own initiative as well as on complaint. The Outlook has called this bill "a great step in advance." Even if the measure, as it may emerge from conference between the two houses, does not contain all the reforms proposed by the Administration or by the Insurgents, something will have been gained, even if it carry the Nation only one step forward in a general railway regulation, desired not more by governmental reformers than by the most responsible carriers and shippers themselves. It is reported that President Taft is more interested in the success of this measure than in that of any other Administration bill. Yet, at a time when the measure is in jeopardy, the President has spent a week away from Washington. For the next week, sure to be even more critical, he announced two absences from Washington but later canceled one. A President should not think that his duty to his legislative programme is ended when he submits that programme to Congress. We regret this as adherence to the old-time doctrine of a sharp division between the executive and the legislative functions. To secure practical political success in getting things done, the desirability of two things becomes daily more apparent—an astute political adviser in the President's immediate circle and a proper Administration political organization.

THE INCOME TAX AMENDMENT

Two Legislatures, those of New York and Massachusetts, have just declined to ratify the amendment to the Federal Constitution providing for an income tax. The Virginia Legislature has also declined to adopt a ratifying resolution, while seven States—Alabama, Illinois, Kentucky, Maryland, Mississippi, Oklahoma, and South Carolina—have ratified the amendment. It should, of course, be remembered that negative action by a Legislature is not necessarily final. A proposed amendment may be ratified at any time by any State, no matter what action it may have taken in the past; so that in a new Legislature in New York, Massachusetts, or Virginia the amendment may have better fortune. The Outlook, however, hopes that it will not; for The Outlook is opposed to an income tax, for several reasons, which may be briefly stated. First, taxation should be laid upon property, and not upon industry. An income tax levied on income derived from investments would be legitimate; an income tax levied on income derived from industry would, in our opin-