Do American presidents only have the power to persuade?

When composing the Constitution in 1789, the Founding Fathers were anxious to stress that the executive branch of the new republic was to be subordinate to the peoples’ representation, the Congress. They achieved this through the Separation of Powers, a theory of government thought up by the French philosopher Montesquieu to prevent over-mighty or tyrannical government. The elaborate system of ‘checks and balances’ introduced greatly reduced the traditional authority of the executive, leaving some to argue that U.S. presidents have been left with very little power, if only the power of persuasion. However to what extent is this true? Theodore Roosevelt famously stated that he was both “king and prime minister”, even though other presidents, such as Johnson and Truman have stressed the weakness of the presidency.

The argument that presidents have only the power to persuade can be seen in many of the formal powers of the president laid out in Article II of the Constitution. This can perhaps best be seen in his powers of nomination, both for federal judges and executive branch officials. The president has only the power to suggest appointments to these positions; the final confirmation of the president’s choice lies with Congress. This will sometimes mean lengthy negotiations between the branches of government, with the president using his ‘pork barrel’ in an attempt to win over Senators. In 1987, Reagan’s nomination of Robert Bork was rejected by a Senate vote of 42 to 58, resulting in embarrassment for both the president and his nominee. Reagan was unable to do anything about this, other than to suggest a new nominee in the hope that they would be accepted instead.

The president’s power of persuasion is also illustrated by his role as chief diplomat for the United States. In this position, he negotiates major treaties with foreign countries, such as Carter’s Panama Canal Treaty or Bush Snr.’s Chemical Weapons Ban. Even so, it is the job of the Congress to ratify the treaty; it has no legal authority until it has been accepted by the Senate with a two-thirds majority. As such, the president can only persuade the Senate to accept it, arguing for its merits or using his limited access to patronage. For instance, the Treaty of Versailles drawn up President Wilson in the aftermath of the First World War was rejected by the Senate, resulting in America being unable to join the League of Nations, a ‘pet-project’ of the President. Later in the C20th, the Senate refused to ratify a further six treaties, which presidents such as Eisenhower (1960) and Clinton (1999) had worked hard on the international stage to achieve.

Similarly, the president’s powers to submit the annual budget and propose legislation both require Congressional action if they are to have any authority. The president’s State of the Union address comprises key pieces of legislation which the president would like to be introduced (such as more green jobs and banking regulations seen in Obama’s 2010 address). However, this is meaningless unless they are introduced to and accepted by Congress, a process that requires the president to act tactfully using bipartisanship to persuade Congressmen and Senators to follow his proposals. The lengthy bargaining process between the president and Congress to get the annual budget accepted follows a similar process – especially if the presidency and Congress are controlled by different political parties (as was seen in the final years of the G. W. Bush administration).

Even so, it is still possible to argue that the president possesses powers which go beyond those of persuasion. Most obviously, the president can veto legislation passed by Congress, a much-used presidential weapon. Altogether, from George Washington to George W. Bush, presidents have used just under 1,500 regular vetoes. Congress may, due to the Separation of Powers, attempt to override the president’s veto, but this is rarely successful. As such, the president can be said to hold considerable powers over the Congress, evidence of checks and balances working in the president’s favour. It can also be used as a threat towards Congress. In this way, some may argue that it is persuasive, in that it is persuading Congress
not to pass certain legislation. However, to give the veto the title of a persuasive power would seem to neglect its very real power to disrupt the legislative authority of Congress by the president.

The Founding Fathers also made the president the Commander-in-Chief of U.S. armed forces, in the light of the War of Independence and the choice of General Washington as the first president. Although according to the Constitution, the president must seek the permission of Congress to declare war (as last happened in 1941), presidents can deploy soldiers at their discretion. This was seen in wars such as Vietnam (Kennedy) and the First Gulf (Bush Snr.). Although G. W. Bush sought ratification from Congress before deployment to Iraq in 2003, subsequent military operations have been conducted at the whim of the president and his defence staff, as was seen most recently by Obama’s decision to deploy a further 30,000 troops to the war in Afghanistan.

The president is the chief executive of the United States, putting him at the head of the executive branch of the government, whose responsibility is to “take care that the laws be faithfully executed.” To carry out this duty, the president is given control of the four million employees of the federal executive branch. The power of a president to fire executive officials has long been a contentious political issue. Generally, a president may remove purely executive officials at his discretion, giving him great powers of influence over the executive branch and its functioning. On a similar note, the president possesses the ability to direct much of the executive branch through executive orders. To the extent the orders are grounded in federal statute or executive power granted in the U.S. Constitution, these orders have the force of law. Even so, executive orders are reviewable by federal courts or can be rendered null through legislative changes to statute.

In the United States, the pardon power for federal crimes is granted to the President of the United States under Article II, Section 2 of the United States Constitution. The pardon power was controversial from the outset; many Anti-Federalists remembered examples of royal abuses of the pardon power in Europe, and warned that the same would happen in the new republic. This power continues to be controversial. On his last day in office, President Clinton issued 140 pardons, one of which was to the husband of a major Democrat Party figure. This goes further than persuasion as is something that can be enacted purely at the president’s discretion.

In conclusion, whilst it is possible to argue that the president has limited powers, many of which revolve around his role as a persuader, presidential powers extend beyond this. This does not, however, attach any tyrannical labels to the president; he can, at any time, be impeached by the elected representatives of the people. It is also necessary to note that this question implies that the power of persuasion is not a significant one, whereas to be able to persuade people is in fact an incredibly important tool. Persuasion helps ensure the dignity of the office of president, ensuring that it is prevented from being overmighty, whilst retaining enough power to exercise the requirements of the executive branch effectively.