EQ # 4 How do we Change the Constitution

- Formal & Informal Amendments

Article V of US Constitution

Read Article V handout. Discuss with your table partner…p. 43

1. Why did the Founders / authors of the Constitution create an amendment process

2. How did the concern about the distribution of power in the Constitution affect the Framers' / authors' choice of a process for amending it?

What is a Formal Amendment?

- <u>Is a formal change to the actual words of the Constitution</u>
- There have been <u>only 27</u> Amendments

- Article V / <u>the amendment process allows the Constitution to be a "living document"</u>

Activity- Amendments

Get a copy of the Pocket Constitution (p. 45)

Look at the amendments listed.

1. What stands out to you regarding the **number** of amendments?

2. What stands out to you about the **content** of the amendments? Consider the first 10 and then the last 17 separately. What conclusions can you draw or patterns do you see?

Formal Amendments

- It is difficult to change the words of the Constitution
- The amendments collectively have made the U.S. Constitution more democratic by expanding voting rights and securing civil liberties.

What is the Formal Amendment Process?

- Is a TWO step process
1. **PROPOSAL-** Must be formally PROPOSED first by vote of US Congress
   - Only 33 Amendments have been formally proposed

2. RATIFICATION- Must be formally RATIFIED next by vote of states;
   -Only 27 Amendments have been ratified

Methods of Proposal

Method 1

By 2/3 vote in both the House and the Senate

[most common method of proposing an amendment]

Or

Method 2

By national constitutional convention called by Congress at the request of 2/3 of the state legislatures

[This method has never been used]

Methods of Ratification

Method 1

By legislatures in ¾ of the states

[in all but one case, this is how amendments have been ratified]

Or

Method 2

Ratified through conventions in ¾ of the states.

[Only been used once to ratify the 21st Amendment]

Amendment Process

Methods of Proposal

Method 1

By 2/3 vote in both the House and the Senate

Or

Method 2

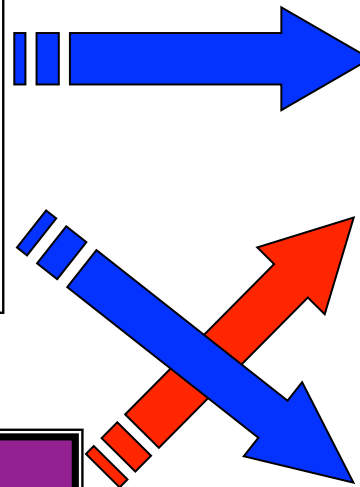 By national constitutional convention called by Congress at the request of 2/3 of the state legislatures

Methods of Ratification

Method 1

By legislatures in ¾ of the states

Or

Method 2

Ratified through conventions in ¾ of the states.

Total of 4 ways to Formally amend the Constitution

Formal Amendments

- **26 Amendments have passed in this way:**
  - Proposed by 2/3 of each house of Congress and
  - Accepted by ¾ of the state legislatures
- **1 Amendment has passed this way:**
  - Proposed by 2/3 of each house of Congress and
  - Accepted by ¾ of states in state conventions (Prohibition)

Formal Amendments

- How does the <u>process of formal amendment</u> reflect the principles of **Madison's constitutional model**?

Q's to Consider when writing an amendment…

Why is the amendment important to add to the Constitution?

Who will support the amendment? Why?

How will the amendment be relevant in the future? Will it be able to last 200 or more years like the Bill of Rights?

What has changed about the United States since the original Constitution was written that makes this amendment relevant?

Informal Amendment

- The <u>meaning of the Constitution Changes without changing the words</u>
- Most constitutional changes are made this way
  - Judicial Interpretation
  - Changing Political Practice
  - Technology
  - Congressional laws and actions
  - *<u>Activity</u>: Venn Diagram (with examples)

Informal Amendment: Methods

1. Basic Legislation
   - Details were added by Congresses
   - Ways it interprets the Constitution and carries out its duties
2. Executive Actions
   - Presidential power grows in times of crisis
   - Executive Agreement
3. Supreme Court Decisions
   - *Marbury v. Madison*

Informal Amendments Methods

4. <u>Political Parties</u>
   - Nomination process
   - Election process

5. <u>Custom</u>
   - Cabinet
   - 2 terms per President
   - Presidential succession

Judicial Review

- The power of the courts to <u>determine whether laws and acts of Congress and the President are constitutional</u>

- Established in the 1803 case *Marbury v. Madison*

- Courts must interpret the constitution's meaning and adapt it over time

Amendments Venn Diagram

- In your INB, create a Venn Diagram to compare and contrast FORMAL and INFORMAL amendments.

- Consider-
  - Definition of each
  - Examples of each
  - Process of each
  - Ease of each