sometimes are in tension with open government are in many cases substantial.

As an initial matter, it must be remembered that open meeting statutes infringe upon public officials' freedoms of speech and association.[206] Even where such restrictions are justified, the fact remains that an open meeting statute limits a public official's right to interact with other public officials, imposing restrictions that are not applicable to the ordinary citizen. Therefore, while the benefits of open government certainly justify some encroachment on the freedoms of association and speech for those who elect to enter public life, a rational open meeting statute should endeavor to avoid *unduly* restricting such rights. For example, some states have determined that elected members of political parties have an interest in caucusing together as a party that outweighs the public's interest in observing all of the interactions of a quorum or majority of a public body.[207] Such an exemption represents an effort to balance the public's right of access with the rights of elected officials to associate together to plan strategy in furtherance of their political agendas.[208]

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open and the need for members of governing bodies to obtain information and communicate in order to function effectively."); Bowen, *supra* note 21, at 134 ("Successful open meeting legislation involves the reconciliation of serious value conflicts.").

206 *See* Little & Tompkins, *supra* note 198, at 452 ("[If public officials are prohibited from communicating with each other outside of public meetings], public officials would be set apart from other citizens as mere dummies with rights of free speech and free association suspended during their terms in office.").

207 *See, e.g.*, N.Y. PUBLIC OFFICERS LAW § 108 (McKinney 2001) ("Nothing contained in this article shall be construed as extending the provisions hereof to: . . . deliberations of political committees, conferences and caucuses."). *See generally* Timothy P. Whelan, *New York's Open Meetings Law: Revision of the Political Caucus Exemption and its Implications for Local Government*, 60 BROOK. L. REV. 1483 (1995) (discussing the development of the political caucus exemption to New York's open meeting statute). One danger of a political caucus exemption is that such an exception can very easily swallow the rule. Consider the case of a seven member city council with five Republicans ands two Democrats. An overly broad political caucus exemption, or an overly expansive judicial construction of such an exemption, could allow the five-member Republican majority to conduct all of its debates and policy discussions in a political caucus, and then convene meetings merely to announce their decisions. Joseph Sluzar, *New York Abandons a Commitment to Open Meetings*, 50 ALB. L. REV. 613, 624-25 (1986) (arguing that amendments to New York's political caucus exemption to make clear that political caucuses were free to discuss potential legislative actions in a closed caucus session "vitiate the public's right to open government").

208 *See, e.g.*, ARIZ. REV. STAT. ANN. § 38-431.08 (West 2001) ("This article does not apply to: . . . [a]ny judicial proceeding of any court or any political caucus of the legislature."); 65 PA. CONS. STAT. ANN. § 712 (West 2000) ("Not included in the intent of this chapter are caucuses or meetings of any ethics committee created pursuant to the Rules of the Senate or the House of Representatives."); W. VA. CODE ANN. § 6-9A-2(4) (Michie 2003) ("The term meeting does not include . . . [a]ny political party caucus.").