from page 4

intercultural dating game that so often ends in misunderstanding and broken hearts. It simplifies things considerable. Many straight volunteers who start off swearing to remain uninvolved in their sites find their resolve weakening after months of loneliness. Another - more definite advantage is the possibility of spending nights with a lover without tossing one's reputation to the winds. In a culture where chaperons rule, the lengths to which straight couples have to go to snatch time alone would stymie any budding relationship.

On the who our lives seem easy by comparison to the plight of gay Paraguayans. Any though I hesitate to generalize about South America as a whole, I think the situation is much the same everywhere. The only notable exceptions are probably the large cosmopolitan cities like Rio or Buenos Aires - both favorite volunteer vacation spots. Even Amnesty International, the London-based human rights organization, will not accept people imprisoned because of their sexual preference as prisoners of conscience. As hard as it may be to believe at times, gays and lesbians in the U.S. have much to be thankful for.

Queer bashing by the United States Supreme Court

Linda Vance

Hardwick v. Bowers, decided June 30 by a sharply divided Supreme Court, is a clear signal that the age-old tradition of queer-bashing is alive and well in the United States. Dismissing the claim that adult Americans have a right to choose their own sexual identities, the Court ruled that the right to privacy does not protect consensual oral and anal sex between gays. To hold otherwise, the Court suggested, would be to authorize not only homosexuality by also "adultery, incest and other sexual crimes."

What does this mean for gays? In legal terms, not much --yet. In terms of the struggle to gain equal human rights in a sexist society, it means having to resume a defensive stance to fend off the waves of repression and ant-gay laws likely to swell as a result of this ruling. Some people already misunderstand the scope of the ruling, and think the Supreme Curt held that homosexuality is illegal; others will forget its details in time, remembering only that it was against gays. Any many, knowing full well the decision's limitations, will nonetheless exploit it to muster additional hatred among the Reagan Right.

The ruling is clothed in legal language and terminology, but at its center is a solid core of homophobia. constitutional rights analysis is not so arcane a practice as the multiplicity of tomes, texts, reviews, comments, notes, articles and cases would suggest. Basically, it involves a simple step by step process: identify the right being claimed; determine whether it is "fundamental" or not; and apply the appropriate "standard of review" to ascertain whether the law affecting the right is constitutionally valid. If the right is "fundamental," the state must show a "compelling interest" in regulating it - something that, as a practical matter, States are almost never able to do. If the right is not fundamental, the State must at least show that there is some "rational basis" for the law in question, usually by proving that the prohibited behavior is dangerous to others. Ordinarily, the argument that people find the illegal behavior distasteful or even repugnant gets nowhere with the Supreme Court. Look, for example, at Roe v Wade, the abortion decision. There the majority judges were dealing with an issue that much of the public was wild over. Did it phase them? No -- they held that what was being asserted was a right to privacy, that privacy was a fundamental right, and that since the State couldn't show a "compelling State interest" in interfering with it, laws restricting abortions in the first three months of pregnancy were invalid. And for over 13 years, the Supreme Court has upheld that opinion, despite threats, hate mail, protests, pressure from Reagan, legislative attempts to get around it --even the appointment of new, more conservative judges to the Court. So it isn't particularly surprising that most lawyers and academics thought that when the Court finally took a case dealing with sexual intimacy, the majority would recognize a fundamental right when they saw one and strike down all the remaining sodomy laws as unconstitutional. Well, we all make mistakes.

The majority of the Supreme Court refused to see any connection whatsoever between personal sexual choices and the right to privacy. This remarkable feat of vision was accomplished by donning intellectual blinders. Instead of examining a broad right to sexual intimacy for everyone, gay and straight, they looked specifically at a "right to engage in homosexual sodomy," and found that such a right did not exist. Reasoning that the cases which upheld a fundamental right to privacy had dealt primarily with the decision to "beget or bear a child," the Court asserted that "(N)o connection between family, marriage or procreation on the one hand and homosexual activity on the other" could be shown. Nor could a fundamental right to consensual sodomy be said to be "implicit in the concept of ordered liberty" such that "neither liberty nor justice would exist if (it) were sacrificed." Because proscriptions against sodomy have existed since ancient times, and because anti-sodomy laws were on the books in the original colonies and in all 50 states until 1961, to claim sodomy as a fundamental right would be "facetious," the Court said. One can't help but wonder what the Court would have done if the case had been brought by a lesbian, since that same venerable tradition of biblical injunctions and sodomy laws utterly ignored the existence of female homosexuality. In any case, having thus identified the right as non-fundamental, the Court was able to skip to the step of examining the "rational basis" of Georgia's sodomy laws. Rejecting arguments that a rational basis for a law requires some sort of showing that the regulated conduct hurts the general welfare, the Court ruled that a "presumed belief of a majority of the electorate in Georgia that homosexual sodomy is immoral and unacceptable" was enough. And with that, they stamped and sealed their approval on the sodomy laws of 24 States and D.C.

The Moral Majority is no doubt delighted with this decision. Not only is the result blatantly anti-gay, the

continued, page 6