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EDITORIALS

Jerry Lee Banks' Death

No matter what Republican Sen. Strom Thurmond of South Carolina thinks, this story of an unjust death penalty and three children orphaned in Georgia is worth hearing in detail.

Mr. Thurmond's Judiciary Committee voted 13-5 on June 9 to resurrect a federal death penalty. At a subsequent committee hearing, Chairman Thurmond walked out just before the testimony of death penalty opponents, one of whom cited the prosecution of Jerry Lee Banks as an outrageous example of contemporary justice. Only one committee member stayed and heard the Banks tragedy, which has received little national attention even after its dreadful climax last spring.

According to evidence now uncontested: Mr. Banks, an unemployed 23-year-old, notified police in 1974 he had found a white man and woman shot to death in a Georgia woods. They were a high school band leader, 38, and his former student, 19.

Police came to the Banks' home the next day and took his one-shot gun as evidence. Later, police charged him with the shotgun murders.

The sheriff, a longtime insurance adjuster in his first term of office, must have been happy to close the case so quickly. Jerry Lee Banks, a black man from a poor family, was a convenient suspect.

Shells from the Banks gun found near the bodies were the only real evidence.

Mr. Banks hired an incompetent attorney for \$10 and a kettle of collard greens and fish. The lawyer didn't earn even this fee. He never called key witnesses who probably could have cleared Mr. Banks by saying they heard a series of rapid shots that could not have come from his single-shot gun.

Mr. Banks was sentenced to death. His attorney, later disbarred because of complaints by

other clients, wrote as an appeal a semi-religious poem never mailed to court.

The defendant languished for six years in the isolated conditions on death row, where he once almost died of a 104-degree temperature. Two years ago, he was so discouraged that he asked a trio of new attorneys to drop his case and allow him to go to the electric chair.

But the new attorneys, who contributed about 4,000 hours of free legal time, persisted. Last December, they developed startling evidence about the chief detective in the case. The detective, who has lost three police jobs for tampering with evidence and forgery, apparently produced the incriminating shotgun shells by test-firing them after the murder, defense attorneys said. The prosecutor dropped the case, saying only that the detective was "totally discredited."

Mr. Banks joyously returned to his family. But his wife had given him up for dead, and wanted a divorce. She demanded custody of his three children.

He pleaded with her to reconsider. She refused. He wrote a note saying "everything I have in this world has been taken away," and, asking his children to forgive him, he fatally shot his wife, then killed himself.

Few of us can look into the human heart and profess to understand how his despair overcame his love for his wife, Virginia.

But it now seems clear that Jerry Lee Banks suffered greatly because he acted like a good citizen in notifying police about those bodies he found in the woods when he was deer hunting. "If I hadn't called (the police), I'm not sure I ever would have felt good about myself again," Mr. Banks once said.

Any good citizens now passively watching Congress legislate a death penalty for federal offenses might well consider both this man's civic involvement, and the irreversible price he paid for it.