



Criminal Appeal (Scotland) Act 1926

1926 CHAPTER 15

3 Powers of Court in special cases

- (1) If it appears to the Court that an appellant though not properly convicted on some charge or part of the indictment, has been properly convicted on some other charge or part of the indictment, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty on such other charge or part of the indictment, and may either affirm the sentence passed on the appellant at the trial or pass such sentence in substitution therefor as they think proper, and as may be warranted in law by the verdict so substituted.
- (2) Where an appellant has been convicted of an offence and the jury could on the indictment have found him guilty of some other offence, and on the finding of the jury it appears to the Court that the jury must have been satisfied of facts which proved him guilty of that other offence, the Court may, instead of allowing or dismissing the appeal, substitute for the verdict found by the jury a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed at the trial as may be warranted in law for that other offence.
- (3) If on any appeal it appears to the Court that the appellant committed the act charged against him but that he was insane at the time of committing the same, the Court may substitute for the verdict found by the jury a verdict of acquittal on the ground of insanity, and may quash the sentence passed at the trial and make such order for the detention of the appellant until His Majesty's pleasure be known, as may be made under section eighty-eight of the Lunacy (Scotland) Act, 1857, in the case of a person acquitted by a jury on the ground of insanity.