part of the indictment, has been properly convicted on some other count or part of the indictment, the court may either affirm the sentence passed on the appellant by the trial court or pass such sentence in substitution therefor as the court thinks proper, and as may be warranted in law by the verdict on the count or part of the indictment on which the court considers that the appellant has been properly convicted.

Sentence on other counts.

(2) Where an appellant has been convicted of an offence and the jury or, as the case may be, the judge or magistrate could on the indictment have found him guilty of some other offence, and on the actual finding it appears to the court of appeal that the jury, judge or magistrate must have been satisfied of facts which proved him guilty of that other offence, the court of appeal may, instead of allowing or dismissing the appeal, substitute for the verdict found a verdict of guilty of that other offence, and pass such sentence in substitution for the sentence passed by the trial court as may be warranted in law for that other offence, not being a sentence of greater severity.

Liability of convicted for offence other than that charged.

(3) Where on the conviction of the appellant the jury have found a special verdict, and the court of appeal considers that a wrong conclusion has been arrived at by the trial court as to the effect of that verdict, the court of appeal may, instead of allowing the appeal, order such conclusion to be recorded as appears to the court to be in law required by the verdict, and pass such sentence in substitution for the sentence passed by the trial court as may be warranted in law.

Wrong conclusion on special verdict.

(4) If on any appeal it appears to the court of appeal that, although the appellant was guilty of the act or omission charged against him, he was insane at the time the act was done or omission made so as not to be responsible according to law for his actions, the court may quash the sentence passed by the trial court and order the appellant to be kept in strict custody, in such place and such manner as to the court of appeal seems fit, until the pleasure of the lieutenant-governor of the province is known.

Insanity.

"**1077.** (1) The operation of any order for the restitution of any property to any person made on a conviction on indictment, and the operation in case of any such conviction, of the provisions of sections 795, 1048, 1049 and 1050 of this Act, shall (unless the trial court has directed to the contrary in any case in which, in its opinion, the title to the property is not in dispute) be suspended—

Restitution of property.

(a) in any case until the expiration of such time after the date of the conviction as may be directed by rules of court for giving notice of appeal or of application for leave to appeal; and

Suspension of orders of trial court.