court after we corrected its views of Federal laws, our review could amount to nothing more than an advisory opinion." [832] The Court is faced with two interrelated decisions: whether the state court judgment is based upon a nonfederal ground and whether the nonfederal ground is adequate to support the state court judgment. It is, of course, the responsibility of the Court to determine for itself the answer to both questions.[833]

The first question, whether there is a nonfederal ground, may be raised by several factual situations. A state court may have based its decision on two grounds, one federal, one nonfederal.[834] It may have based its decision solely on a nonfederal ground but the federal ground may have been clearly raised.[835] Both federal and nonfederal grounds may have been raised but the state court judgment is ambiguous or is without written opinion stating the ground relied on.[836] Or the state court may have decided the federal question although it could have based its ruling on an adequate, independent non-federal ground.[837] In any event, it is essential for purposes of review by the Supreme Court that it appear from the record that a federal question was presented, that the disposition of that question was necessary to the determination of the case, that the federal question was actually decided or that the judgment could not have been rendered without deciding it.[838]

Several factors affect the answer to the second question, whether the nonfederal ground is adequate. In order to preclude Supreme

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[832] Herb v. Pitcairn, 324 U.S. 117, 125–26 (1945).

[833] *E.g.*, Howlett v. Rose, 496 U.S. 356, 366 (1990); NAACP v. Alabama ex rel. Patterson, 357 U.S. 449, 455 (1958).

[834] Fox Film Corp. v. Muller, 296 U.S. 207 (1935); Cramp v. Board of Public Instruction, 368 U.S. 278 (1961).

[835] Wood v. Chesborough, 228 U.S. 672, 676–80 (1913).

[836] Lynch v. New York ex rel. Pierson, 293 U.S. 52, 54–55 (1934); Williams v. Kaiser, 323 U.S. 471, 477 (1945); Durley v. Mayo, 351 U.S. 277, 281 (1956); Klinger v. Missouri, 80 U.S. (13 Wall.) 257, 263 (1872); *cf.* Department of Mental Hygiene v. Kirchner, 380 U.S. 194 (1965).

[837] Poafpybitty v. Skelly Oil Co., 390 U.S. 365, 375–376 (1968).

[838] Southwestern Bell Tel. Co. v. Oklahoma, 303 U.S. 206 (1938); Raley v. Ohio, 360 U.S. 423, 434–437 (1959). When there is uncertainty about what the state court did, the usual practice was to remand for clarification. Minnesota v. National Tea Co., 309 U.S. 551 (1940); California v. Krivda, 409 U.S. 33 (1972). *See* California Dept. of Motor Vehicles v. Rios, 410 U.S. 425 (1973). Now, however, in a controversial decision, the Court has adopted a presumption that when a state court decision fairly appears to rest on federal law or to be interwoven with federal law, and when the adequacy and independence of any possible state law ground is not clear from the face of the opinion the Court will accept as the most reasonable explanation that the state court decided the case as it did because it believed that federal law required it to do so. If the state court wishes to avoid the presumption it must make clear by a plain statement in its judgment or opinion that discussed federal law did not compel the result, that state law was dispositive. Michigan v. Long, 463 U.S. 1032 (1983). *See* Harris v. Reed, 489 U.S. 255, 261 n.7 (1989) (collecting cases); Coleman v. Thompson, 501 U.S. 722 (1991) (applying the rule in a *habeas* case).