Applying the above authorities to the statements on the package in question, it is my opinion that such language used is not false or misleading. The picture of the two plants may be an actual photograph. No statement is made that such product will, in fact, stimulate growth. The act in question, being penal in nature, must be strictly construed. Therefore, I do not believe you would be justified in withholding the license on the ground that an advertisement is fraudulent or misleading.

STATE BOARD OF ACCOUNTS. Ordinances, Penal. Publication. Necessary to publish in newspaper in addition to pamphlet or booklet form.

March 17, 1944.

Opinion No. 30

Hon. Otto K. Jensen,
State Examiner,
Department of Inspection and
Supervision of Public Offices,
State House,
Indianapolis, Indiana.

Dear Mr. Jensen:

This will acknowledge receipt of your letter dated March 15th, 1944, in which you request an opinion upon the question as to whether or not it is necessary to advertise ordinances with a penalty clause in the newspaper in cases where the same have been ordered by the common council of a city to be published and distributed in pamphlet or booklet form.

It is my opinion that the answer to your question is found in the opinion of the Supreme Court of Indiana in the case of Bartley v. Chicago and E. I. R. Co. (1940), 216 Ind. 512.

In this case the common council of the city of Evansville enacted traffic ordinance No. 1454 and caused the same to be printed in pamphlet form, showing on the cover of the pamphlet that the ordinance was published on July 23, 1930, under the order of the common council of the city of Evansville. The Supreme Court of Indiana, in considering the question as to whether or not this was a sufficient publication of the ordinance without being published in a newspaper, uses the following language:
"The appellant insists that the court erred in sustaining said objection and bases his contention on Sec. 52 of the Cities and Towns Act of 1905, page 219, 245, Sec. 48-1406, Burns' 1933, Sec. 11431, Baldwin's 1934. This section of said act provides that the City Council shall have the power to enact ordinances for the government of the city, and prescribes the manner in which such ordinances shall be passed, and the method of their approval or veto by the mayor. It also provides a method in which such ordinances shall be recorded and the manner of the publication of all ordinances which impose a penalty or forfeiture for the violation thereof. Said section then provides as follows:

"That whenever any city shall publish any of its ordinances in book or pamphlet form, such publication shall be of itself sufficient, and such ordinance or ordinances shall be in force in two (2) weeks from the date of publication of such book or pamphlet. Any such publication of the ordinances of a city in book or pamphlet form, if the same shall purport to be printed under the authority of the common council of such city, shall be presumptive evidence, in all courts and places, of the ordinances therein contained and of the date of their passage, and that the same are properly signed, attested, recorded and approved.'

"The appellant insists that under this particular provision the pamphlet which he attempted to introduce should have been admitted by the court. In 1927 the General Assembly of this State passed the Legal Advertising Act, Sec. 4 of which provides the method for the publication of ordinances but said Act contained no provision for the publication of ordinances in book or pamphlet form and provided for the repeal of all laws in conflict therewith. Acts of 1927, ch. 96, p. 252, Sec. 49-704, Burns' 1933, Sec. 10204, Baldwin's 1934.

"The provisions of the Acts of 1905 supra on which the appellant relies might have supported his contention prior to the passage of the 1927 Legal Advertising Act but since the publication of ordinances in book or pamphlet form was not sufficient under the 1927 Act supra, and further since said 1905 act provides that such a pamphlet should be presumptive evidence only of the
date of the passage of the ordinance and that the same was properly signed, attested, recorded and approved, we are of the opinion that the publication of said ordinance in pamphlet form did not constitute presumptive evidence of the due publication of such ordinance. * * *. We are of the opinion that the court properly excluded the offered ordinance in this case because of the failure of the appellant to show publication."

Bartley v. Chicago E.I.R. Co., 216 Ind. 512, on 526 to 528.

Under the law as declared by the Supreme Court in the above case, it is my opinion that it is necessary to advertise ordinances with a penalty clause in a newspaper and that publishing the same in pamphlet or booklet form is not sufficient to constitute due publication of the ordinances.

STATE BOARD OF TAX COMMISSIONERS: Charitable, religious, educational foundations. Taxability of real estate and personal property after March 1, 1944.

March 21, 1944.

Hon. Charles H. Bedwell, Chairman,
State Board of Tax Commissioners,
State House,
Indianapolis, Indiana.

Dear Judge Bedwell:

This will acknowledge receipt of your letter dated March 2nd, which reads as follows:

"We would appreciate the receipt of an official opinion upon the following:—

"The William Taylor Foundation is a non-profit Indiana corporation which owns and operates the educational institution known as Taylor University, at Upland, Indiana.

"Such foundation owns and operates a 120 acre dairy farm, which immediately adjoins the campus and grounds on which are located the University buildings."