The theory of the social contract is an important theory in the classical age that gives a new context to discussions on the death penalty. By considering man as a free subject who transfers his natural right to another for the constitution of the state, the jusnaturalists also raise the question of whether it is possible for man to transfer his right to life to another. In this context, as one of the founders of the theory of the social contract, Hobbes occupies a central place in the indispensable contribution to philosophical development on this question. However, as many commentators have noted, it is precisely in Hobbes that the tension between the constitution of the state and its use of the death penalty, as well as that between natural law and the social contract, became acute. We take as an example this expression by Strauss, which aptly describes this tension. But, by granting this, Hobbes in fact admitted that there exists an insoluble conflict between the rights of the government and the natural right of the individual to self-preservation. At the same time, according to Mario Cattaneo, Hobbes's position regarding the death penalty thus has a character all of its own. On the one hand, he does not deny the sovereign the power to inflict the death penalty on a subject; but on the other he recognizes that the subject is lawfully entitled to resist the execution of the death sentence. For these two commentators, the tension lies in two different wills: that for self-preservation, and that for the construction of a powerful state that guarantees the security of all citizens. More precisely, on the one hand, the reason why man transfers his right to another by contract is to preserve himself against the miserable state of nature where men are enemies to each other. So, in principle, it should be legitimate for this third party to adopt all the means useful for the conservation of members, even if it means depriving a certain individual of his life. On the other hand, since the end of natural law is self-preservation, it would be absurd to consider that the other, to whom man transfers his natural right, has a right to deprive members of their lives.